

TOWN OF TYNGSBOROUGH

Office of the Selectmen
25 Bryant Lane
Tyngsborough, MA 01879
Tel: 978 649-2300 Ext. 100
Fax: 978 649-2320

Board of Selectmen Meeting Minutes

Monday December 20, 2010 6:00 P.M. Town Offices

Members Present: Selectwoman Ashley O'Neill, Selectwoman Elizabeth Coughlin, Selectman
Richard Reault, Selectman Richard Lemoine and Selectman Robert Jackson.

Staff Present: Town Administrator Michael Gilleberto and Admin Assistant Therese Gay

The listing of matters are those reasonable anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law.

1. 6:05 P.M Open Meeting

The Chairman called the meeting to order, the Board was introduced and the agenda was read.

2. New Business

• 6:05 P.M. Dracut Water Supply District

The Director of the Dracut Water Supply District has sent a letter stating that they will not be attending our meeting this evening. The purpose of the meeting this evening was to discuss the upcoming renewal of the Dracut Water Supply District and the Town of Tyngsborough Agreement.

• Cable Franchise Agreement

The Cable Franchise Agreement is schedule to expire in 2011 and will need to negotiate a new agreement. The Board may delegate a cable commission or a sub-committee to work with outside Counsel and the Administrator. The Board has decided to use a sub-committee; two board members have expressed interest to negotiate. Selectman Reault and Selectwoman Cougnlin have expressed interest to negotiate. The Board voted unanimously on a motion by Selectman Jackson, second by Selectman Lemoine to vote Selectman Reault and Selectwoman Coughlin to work with Counsel and the Administrator.

• 7:00 P.M. Tri-Board Meeting

The Board Chair reconvened the meeting at 7:30 PM. The School Committee members present were Mr. Manzo, Mr. Buchman, Mr. Derosiers, Mr. McCarty, Mr. Hunt, Ms Wennerstrom also present were Supt. Don Ciampa and business manger Joe Messina. The School Committee did not officially open their meeting and did not participate. The Finance Committee members present were Mr. Griffin, Mr. Mullin, and Ms Geyer. The Finance Committee opened their meeting on a vote by Member Mullin, second by Member Geyer. Ms Karyn Puleo, Chairman of the SFPC, presented the committee's 3 year plan that includes FY 2012, 2013 and 2014. First there is a correction on the first page, Selectman Richard Lemoine, a member was very active in the preparation of the report; his name was accidently omitted on the draft. The SFPC will need to take a final vote on the report there are no major changes. This report does not stand alone it has many components. Ms Puleo went through each component in detail (see attached report). Selectwoman O'Neill thanked Ms Puleo and her committee for the work done on this project. Selectman Lemoine through many meetings the information gathered is a combination of all departments' input the final posted information is precise. Thanked everyone who is here to serve this community. The School Dept had no questions. Finance Committee has a comment, member Rob Mullin after having conversation with the Finance Committee and others; he would like to see

School and the Old Town Hall buildings from the weather. The Board thanked the resident for his donation and that the town should pursue the request and ask input from the Building Commissioner and the Historical Commission. The Board voted unanimously on a motion by Selectman Jackson, second by Selectwoman Coughlin to move forward to secure the Winslow School and the Old Town Hall for the winter months. There was a memo from the Chief on an additional mandated firearms training this training will improve training of the department, the Chief is looking for ways to reduce the cost. The long time Cemetery Commissioner and Town Burial Agent, Robert DeCarteret, has submitted his letter of resignation from the Cemetery Commission due to poor health. The Board thanks Mr. DeCarteret for his many years of service.

8. Selectmen's Reports

- Selectman O'Neill Strategic Financial Planning
 The SFPC will present its report this evening, and thanks the members who have served on this committee. Happy Holidays to everyone.
- Selectman Coughlin Energy and Environmental Affairs/Licenses/Inspections
 Update on the EEA, the regional grant application for electric vehicles has been submitted. The
 Town has a Solar Site available to them. The LED Street Light is still moving forward, and looking
 into the Wind Farm and working with the Planning Board. Happy Holidays to everyone.
- Selectman Reault Northern Middlesex Council Of Government The Administrator and myself met with Mr. Jay Donovan at NMCOG on the updating of the affordable housing plan. The first draft is almost ready for review. Affordable units continue to rise with two apartment buildings on line. There is a need for further discussions on the numbers.
- Selectman Lemoine Economic Development/Westford Road Development We will need a census on the number of students from the school. Selectman Lemoine is in support of the solar field and the savings it will bring to the town. The Westford Road Development agreement has been reviewed by Town Counsel and some revisions were made. The agreement should be ready by the next meeting.
- Selectman Jackson The Early Childhood Center/Insurance Committee and o Discussion on providing the public with information on contract negotiations The Board voted on a motion by Selectman Jackson, second by Selectwoman Coughlin for discussion to provide reasonable disclosures to the public of information discussed during employee contract negotiations at the next public Board of Selectmen meeting following a negotiating session. The disclosures will consist of a list of the proposals/requests and responses by both negotiating parties provided the disclosures are not aimed at frustrating the bargaining process; the statements do not indicate an unwillingness to bargain in good faith; and the statements are not of such frequency as to potentially become an abuse of privilege. Discussion: It is important to have transparency and make available to the general public so that they would have reasonable knowledge of the negotiation making it a fairer process. Further discussion showed that though the board appreciates bringing it forward but feels that it will make it more difficult, though nothing is being held back if both parties want to be open. Selectwoman O'Neill cannot support the motion at this time. Members of the Board will need more information, and also both parties will need to agree. It is a good thing to keep the taxpayers informed but also will need to be mindful of what information can be released and Labor Counsel will need to weight in. There has been misinformation in the past and this may be a way to stop the misinformation, but again must go slow and make sure the information is accurate. Having a motion and a second the Chairman asked for a vote. The Board voted 4-1. The motion passes.
- 9. Town Administrator's Reports No Administrator's report this evening. The Town Administrator wishes everyone a happy holidays.

The Board took a 5 minute recess at 7:25 PM

10. Executive Session (if necessary) - No session this evening.

11. Adjournment

The Board voted unanimously on a motion by Selectman Reault, second by Selectman Jackson to adjourn the meeting. The meeting adjourned at 8:25 P.M.

Respectfully submitted

Therese Gay Admin Assistant

Approved on Monday January 24, 2011



TOWN OF TYNGSBOROUGH

Office of the Selectmen
25 Bryant Lane
Tyngsborough, MA 01879
Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320

Board of Selectmen Meeting Agenda

Monday, January 3, 2011

6:00 P.M.

Town Offices

The listing of matters are those reasonable anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law.

- 1. 6:05 P.M Open Meeting
- 2. New Business
 - 6:05 P.M. Manager Change Request Blue Moon
- 3. Old Business
 - Tyngsborough Sports Center
 - Westford Road Development Agreement

4. Citizen/Business Time

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

- 5. Selectmen's Annual License Renewals
 - Renew Common Victualler License Bittersweet Bake Shoppe
 - · Renew Licenses for Funtageous, Inc.
 - Common Victualler
 - Weekday/Sunday Entertainment Licenses
 - o Automatic Amusement Devices

6. Correspondence

7. Selectmen's Reports

- Selectman O'Neill Strategic Financial Planning
- Selectman Coughlin Energy and Environmental Affairs/Licenses/Inspections
- Selectman Reault Northern Middlesex Council Of Government
- Selectman Lemoine Economic Development/Westford Road Development
- Selectman Jackson The Early Childhood Center/Insurance Committee

8. Town Administrator's Reports

Report is available online at www.tyngsboroughma.gov

- Response to Selectmen's Requests
- Budget
- Departmental Information
- Contracting/Procurement
- Other

9. Executive Session (if necessary)



The board may move to go into executive session to discuss strategy with respect to collective bargaining, litigation, or exempt negotiations if an open meeting may have a detrimental effect on such subject matters.

10. Adjournment

Future Meetings

Selectmen's Meeting Monday, January 10, 2011 at 6:00 P.M. at Town Hall Offices.

*The Town Offices will be closed on Monday, January 17 for the Martin Luther King Holiday.



TOWN OF TYNGSBOROUGH

Office of the Selectmen 25 Bryants Lane Tyngsborough, MA 01879 Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320

December 22, 2010

Tyngsborough Board of Selectmen

Meeting Notice

The Tyngsborough Board of Selectmen, acting as the Local Licensing Authority, will conduct a meeting on Monday, January 3, 2011 at 6:00 P.M. at the Tyngsborough Town Hall, 25 Bryants Lane, Tyngsborough, Massachusetts, at the request of Tyngsborough Entertainment Company, Inc., d/b/a Blue Moon Lounge, 130 Frost Road, for a transfer of manager from Debra Dubois, to Christopher J. Pereira.

Publication Date: Thursday December 22, 2010

LEGAL NOTICES FAX COVER SHEET

To: Terry Fax: 978-649-2320	· .
From: Rebecca Rudeen Phone: (978)970-4754 Fax: (978)970-4700 Email: rrudeen@mediaonene.com	1 .
Pages: ~	· .
Publication:	•
 □ Lowell Sun □ Fitchburg Sentinel & Enterprise □ Nashoba Publications □ Valley Dispatch 	•
Publication Date(s): 12/23 Cost: \$\forall \tau \cdot \forall \forall \tau \cdot \forall \forall \tau \cdot \forall \foral	
Prepayment Needed: Yes No Need Correction(s) By: 10 Jan 1	_at _3_o'clock
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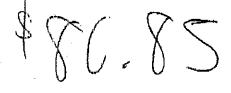
Thank You!

9789784788



Tyngsborough Board of
Selectmen
Mealing Notice
The Tyngsborough Board of
Selectmen, acting as the
Local Licensing Authority,
will conduct a meeting on
Monday, January 3, 2011 at
6:00 P.M. at the
Tyngsborough Town Hall, 25
Bryans Lana, Tyngsborough,
Massachusoits, at the
requast of Tyngsborough
entertalmment Company, Inc.,
4/b/a Blue Moon Lounge,
130 Frost Road, for a transfer
of manager from Debra
Dubbis, to Christopher J.
Pereina.

December 23, 2010



The Commonwealth of Massachusetts Alcoholic Beverages Control Commission 239 Causeway Street Boston, MA 02114



PETITION FOR CHANGE OF LICENSE

29800002			Tyngsborough
ABCC License Number			City/Town
The licensee Tyngsborough Entertations: ☐ Change of Manager ☐ Pledge of License/Stock ☐ Change of Corporate Name/DBA ☐ Change of License Type (§12 ONL	Alto Cor Cha	respectfully petitions the Licenseration of Premises dial & Liqueurs ange of Location	sing Authorities to approve the
☑ Change of Manager	Last-Approved Manager	Debra Dubois	
	Requested New Manage	Christopher J. Pereira	
Pledge of License /Stock	Loan Principal Amount: \$	Interest Ra	te:
	Payment Term:	Lender:	
Change of Corporate Name/DBA	Last-Approved Corporate	P Name/DBA:	, and see
•	Requested New Corporat	te Name/DBA:	
] Change of License Type	Last-Approved License Ty	ype:	
	Requested New License 1	ype:	
] Alteration of Premises: (must fill ou	ut attached financial inform	nation form)	
Description of Alteration:			
] Change of Location: (must fill out a	attached financial informat	ion form)	
	Last-Approved Location:		
	Requested New Location:		

Signature of Licensee



Date Signed

December 21, 2010

CORPORATE VOTE OF TYNGSBOROUGH ENTERTAINMENT COMPANY, INC.

We, Robert W. Pereira and Debra Dubois, hereby certify that the Board of Directors of Tyngsborough Entertainment Company, Inc. have voted to appoint Christopher J. Pereira as General Manager on the liquor license held by said corporation and that Christopher J. Pereira is hereby authorized to perform each and every task reasonably deemed to be necessary as said General Manager.

We, Robert W. Pereira and Debra Dubois do hereby waive the formal meeting and notice requirements under the By-Laws of the corporation pursuant to Article VI, Section 6.

Date: December 21, 2010

Robert W. Pereira, Director

Debra Dubois, Director

The Commonwealth of Massachusetts Alcoholic Beverages Control Commission 239 Causeway Street Boston, MA 02114 www.mass.gov/abcc



Manager Application

All proposed managers are required to complete a <u>Personal Information Form</u>, and attach a copy of the corporate vote authorizing this action and appointing a manager.

1. Licensee Information	1:					
Legal Name of Licens	ee: Tyngs	borough Entertainme	nt Bus	iness Name (d/	b/a)	Blue Moon Lounge
Address:	130 Frost Ro	oad				
City/Town	Tyngsborou	gh	State	MA	Zip Cod	e 01879
ABCC License Numbe (If existing licensee)	er: 129800	02	Pho	one Number o	of Premis	e 978-649-9018
. Manager Informatio	n:					
Name: Christopher J. Pe	ereira		•	Cell Phone	Number:	954-465-4148
Are Jua u.S. Citizen:	: Yes 🖂	No [Court and Da	ate of Na	aturalization:
Submit proof of citizenship ar	nd/or naturali:	zation such as Voter's Cer	tificate, Birth	Certificate or Na	aturalizatio	n Papers)
ist the number of hou	ırs per wee	ek you will spend o	n the licer	nsed premises	s: 40 m	inimum
lave you ever been ch	-		federal or	military crin	ne? Yes	No □
o you now, or have yolcoholic beverages?	ou ever, h Yes 🔲 🏻 N	eld any direct or ind lo⊠	direct, ber	eficial or fin	ancial in	terest in a license to sell
f yes, please describe:		A				
ave you ever been the voked or cancelled?	e Manager Yes □ N	of Record of a lice lo ⊠	nse to sel	l alcoholic be	verages	that has been suspended,
yes, please describe:						
redictional space is needed, please use the lease list your employ		he past ten years (I	Dates, Pos	ition, Employ	yer, Add	ress and Telephone):
The Middlesex Corpor	ration, M/	& FL (communic	ations ma	nager) 1989	3/2010 t	hen Blue Moon since (asst.m
iciditional space is needed, please use the	- Jakt bade,					
religion rel	ins and per	nalties of perjury that	the inforn	nation I have p	provided :	in this application is true and

Signature

Date

December 21, 2010

The Commonwealth of Massachusetts Alcoholic Beverages Control Commission 239 Causeway Street Boston, MA 02114 www.mass.gov/abcc



Personal Information Form

Each individual listed in §10 of this application must complete this form.

1. Licensee Information:				
		5 /	E	**************************************
regar Name of Licensee: Tyngsbo	rough Entertainment	Business Nan	ne (d/b/a)	Blue Moon Lounge
Address: 130 Frost Road			se Number: sting licensee)	129800002
City/Town Tyngsborough	S	itate MA	Zip Code	01879
Phone Number of Premise 978-649-9	018	EIN of License	::	
2. Personal Information:				
ndividual Name Christopher J. Pereira		Home I	hone Number:	954-465-4148
Ad: 128 Frost Road			ŧ	
Tyngsborough	S ₁	tate MA	Zip Code	01879
ocial Security Number	- Principle of the state of the	С	Pate of Birth	10/05/1971
Place of Employment Blue Moon Lo	ounge			
lave you ever been convicted of a s f yes, attach an affidavit as to all	tate, federal or milit charges and dispos	ary crime? Yes	□ No ⊠	·
. Financial Interest:				
rovide a detailed description of you	ır direct or indirect,	beneficial or fi	nancial interes	et in this license.
None.				
IMPORTANT ATTACHMENTS: For *If additional space is needed, plea	all cash contributions, at se use the last page*	tach last 3 month	s of bank stateme	nts for the source(s) of this cash.
hereby swear under the pains and p	enalties of perjury th	nat the informa	tion I have pro	ovided in this application is
gna de Manuello			Date	December 21, 2010
tle Proposed Manager	(If Cor	poration/LLC R	epresentative)	

IPS On Premise Issued: 7/23/2010

SSN: XXX-XX-XXXX Expires: 7/7/2013 D.O.B.: XX/XX/XXXX

For service visit us online at www.gettips.com Michael Marcantonio, 64

CHRISTOPHER PEREIRA 25 Allen St Arlington, MA 02474-6809



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RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION MONETARY TRANSMITTAL FORM

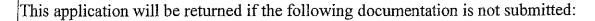
APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

REVENUE CODE:	RETA		
CHECK PAYABLE TO	ABCC OR COMMONWEALTH OF M	IA: \$200.00	
(CHECK MUST DENOTE THE	NAME OF THE LICENSEE CORPORATION, LLC, P	PARTNERSHIP, OR INDIVIDUAL)	
CHECK NUMBER	3,392		
IF USED EPAY, CONF	IRMATION NUMBER:		
A.B.C.C. LICENSE NU	MBER (IF AN EXISTING LICENSEE, CAN BE O	BTAINED FROM THE CITY):	129800002
LICENSEE NAME:	Tyngsborough Entertainment Company, Inc.		
AĎ₽₽ESS:	130 Frost Road		
CITY/TOWN:	Tyngsborough STAT	TE MA ZIP CODE	01879
TRANSACTION TYPE (PI	ease check all relevant transactions):		
New License	New Officer/Director	Pledge of License	Change Corporate Name
Transfer of License	Change of Location	Pledge of Stock	Seasonal to Annual
Change of Manager	Alteration of Licensed Premises	Transfer of Stock	Change of License Type
Cordials/Liqueurs Permit	New Stockholder	ssuance of Stock	Other
— 6-Day to 7-Day License	Management/Operating Agreeme	ent Wine & Malt to All Al	cohol

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS TRANSMITTAL FORM ALONG WITH THE CHECK, COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:

ALCOHOLIC BEVERAGES CONTROL COMMISSION P. O. BOX 3396
BOSTON, MA 02241-3396

Change of Manager Checklist



- \$200.00 Fee made payable to the Commonwealth of Massachusetts or the ABCC
- □ Petition for Change of License
- Manager's Form
- Personal Information Form

40 Church Street, Suite 500, Lowell, Massachusetts 01852-2686 Telephone (978) 458-4583 Facsimile (978) 937-0950

tauch hA.

VIA ELECTRONIC MAIL & USPS

December 28, 2010

Mr. Michael P. Gilleberto Town Administrator Town Hall 25 Bryants Lane Tyngsborough, MA 01879

File: Tyngsborough

Re: Tyngsboro Sports Center

Dear Michael:

This letter is a response to your E-mail of December 10, 2010, that you sent to me on behalf of the Board of Selectmen.

I. ISSUES

You present the following three (3) issues:

"First, a determination ... as to the occupancy load of the building – specifically as to whether or not the occupancy is limited by the number of parking spots. ..."

"Second, a determination ... as to whether or not certain activities are permitted under the special permit. ... A further determination ... as to any actions required by the petitioner and/or the Selectmen to address any activities that are not permitted under the current Special Permit. ..."

"Third, a review of other regulatory possibilities is required [local regulations, etc] to govern this type of event [I assume, mixed martial arts]. After consulting with Kopelman and Page (sic), their opinion was that there is already significant event-specific regulation in place at the state level."

II. FACTS

You present the following facts:

Mr. Michael P. Gilleberto, Town Administrator

Re: Tyngsboro Sports Center

December 28, 2010

A. First Issue: Occupancy Load:

Mark Dupell, for the years 2007, 2008, and 2009 certified a capacity of 650 for both stories; and in 2009 the certification apparently was amended with a first story capacity of 1,200, with no reference to the second story.

By letter to you, dated December 2, 2010, Donald Crowell writes that the certificates show "... a total of 114 parking spaces provided." [Note, the occupancy load certificates are silent on parking spaces.] He also references Paul Davies' calculations in 2008 of an occupancy load of 1,200; but the parking spaces did not change from 114. Mr. Crowell's opinion, referencing the Zoning By-Laws, Section 3.10.24, is that a 1,200 occupancy load requires that the occupancy load be re-certified because of the 114 parking spaces.

B. Second Issue: Activities Permitted Under the Special Permit:

The pending entertainment application contains a detailed list of activities and a copy of the special permit, and associated applications and "feedback" were provided to me.

C. Third Issue: Regulations Governing Mixed Martial Arts Events:

A copy or summary of Kopelman & Paige's opinion was not provided to me.

No information was provided to me as to specific regulations that the Board wishes to address.

III. DISCUSSION

A. First Issue: Occupancy Load:

Paul Welcome, as the official responsible for the enforcement of the State Building Code (the "Code"), is to review and comment whether the Code permits occupancy of 1,200.

Zoning By-Laws, Section 3.10.00, reads in part:

- 3.10.20 ... Adequate off-street parking must be provided to service all parking demands. ...
- 3.10.21 ... These requirements may be reduced ... by the Special Permit Granting Authority. ...



Mr. Michael P. Gilleberto, Town Administrator

Re: Tyngsboro Sports Center

December 28, 2010

3.10.23 ... The number of seats in benches, pews ... shall be calculated at twenty inches for each seat. ...

3.10.24, Use ... Any other non-residential use, or any use in involving a combination of functions similar to or listed herein. ... Number of spaces ... A number ... as determined by ... the special permit granting authority. ...

Note, Section 3.10.24 does not list a commercial recreation facility.

I do not find in the Zoning By-Laws any reference to the Code occupancy load in conjunction with the Zoning By-Laws parking requirements.

My view is that the occupancy under the Code is not related to the Zoning By-Laws; and without further information, I am not in agreement with Mr. Crowell's view that the occupancy load must be re-certified because of the 114 parking spaces, unless someone can point out to me that this requirement is in the Code. But, the occupancy load may need to be revisited because of other Code requirements. The occupancy limit, in view of the number of parking spaces, could have been addressed during the special permit hearing as a possible condition; but it was not.

B. Second Issue: Activities Permitted:

The Zoning By-Laws, Section 11.44, defines "Commercial Recreation ... open to the public for a fee such as facilities for ice skating ... racquet sports, bowling, horseback riding, swimming, and miniature golf." However, Amusement Facilities Indoors and Outdoors contemplate a much larger venue such as a theater, outdoor amusement park, stadium, race tracks.

Section 2.11.50 of the Zoning By-Laws, Accessory Use Regulations does not make any reference to the instant subject matter.

Section 4.10.10 of the Zoning By-Laws, Special Permits – Major Business Complex, includes indoor commercial recreation complexes.

In my view, the definition of commercial recreation does not include professional or amateur boxing, wrestling, or mixed martial arts events sanctioned by the Massachusetts State Athletic Commission (the "MSAC") with attendance by several hundred customers. The definition contemplates that a member of the



Mr. Michael P. Gilleberto, Town Administrator

Re: Tyngsboro Sports Center

December 28, 2010

public may pay a fee to engage in recreational activities such as ice skating, racquet sports, and the like. The public pays a fee to participate in a sport as recreation.

I have also considered whether such mixed martial arts events might possibly be an accessory use, for instance under Section 2.11.5 of the Zoning By-Laws, but concluded that they are not.

In reviewing the language of a by-law, I note the following:

Merriam-Webster's Collegiate Dictionary, 10th Edition, defines the word "recreation" as: "... refreshment of strength and spirits after work ... a means of refreshment or diversion: HOBBY. ..."

The American Heritage Dictionary of the English Language defines the word "recreation" as: "Refreshment of one's mind or body after labor through diverting activity; play."

I have reviewed appellate and trial case law and could not find any case that would somehow include, under the definition of commercial recreation in the By-Laws, events such as wrestling, boxing, and mixed martial arts with several hundred people in attendance; and I do not find, as stated above, that such events can be considered an accessory use.

An "accessory use" is a use which is clearly incidental to and customarily found with and located on the same zoning lot as the principal use to which it is related. Generally, local by-laws take one of three approaches to the issue of accessory uses. First, a by-law, as is the case in Tyngsborough, may specifically permit those accessory uses, or types of accessory uses, allowed in connection with the principal use. Second, a by-law may specifically prohibit certain accessory uses, allowing others by implication. Finally a by-law may generically permit accessory uses "incidental to and customarily found with" the principal use.

Where an accessory use is specifically permitted or prohibited, the availability of a particular use is largely a matter of statutory construction. Tyngsborough's By-Laws generically do not permit uses "incidental to and customarily found with" the principal use.

As a general rule, a zoning by-law must be construed reasonably with regard both to the objective sought to be obtained and to the general structure of the by-law as a whole. Terms used in a zoning by-law should be interpreted in the context of



Mr. Michael P. Gilleberto, Town Administrator Re: Tyngsboro Sports Center December 28, 2010

the by-law as a whole and, to the extent consistent with common sense and practicality, they should be given their ordinary meaning.

Many decisions turn on the meaning of a specific, undefined word or phrase in a by-law. In such cases other legal contexts and dictionary definitions are helpful. If the words to be interpreted are everyday in nature, they should be interpreted in accordance with common usage, without artificial enlargement or contraction.

The literal meaning of a general term in a by-law must be limited so as to not include matters that, although within the letter of the enactment, do not come fairly within its spirit and intent.

My comments are not to be construed as applicable to a situation where, for example, classes are held for wrestling, boxing, karate, mixed martial arts and the like; and the participants then engage in some contest with other students or participants where parents, friends, and others are invited to attend the event and where such events are not sanctioned by the MSAC, with licensed promoters, and large crowds.

The applicant attached an addendum to its application for a license with ten (10) items and subsequently provided greater specificity regarding each item. I am of the view that, with appropriate conditions, items 1, 2, perhaps 3, 8 (birthdays), and 10 (sleep-ins) would not be prohibited. My view is that items 4, 5, 6, 7, or 9 (which was not defined) are not commercial recreation and, therefore, are not permitted.

C. Third Issue: Regulations Governing Mixed Martial Arts Events:

I need more information as to the concerns, if any, of the Board of Selectmen. In regard to boxing, wrestling, and mixed martial arts, as you know, the MSAC exercises control and licenses the events, the promoters, matchmakers, referees judges, trainers, and others. No information has been provided to me that the Board of Selectmen does not agree with the MSAC's licensing procedure or its regulations. However, at present it would be reasonable to first determine whether mixed martial arts events are permitted and then develop regulations and reasonable conditions for entertainment licenses in those areas not regulated by MSAC.

In my view, these events are well regulated as to personnel such as the promoters, matchmakers, medical personnel, etc., by the MSAC. However, I would strongly suggest that the Board promulgate regulations and conditions that address security such as the number of police officers and/or well-trained professional security



Mr. Michael P. Gilleberto, Town Administrator

Re: Tyngsboro Sports Center

December 28, 2010

staff necessary for the number of persons in attendance, the alignment of chairs and benches, with chairs and benches secured together so that they cannot be thrown or moved so as to impede exiting during a fire, and, if necessary, emergency lighting for a particular event, and the like.

IV. CONCLUSIONS

- A. First, the present occupancy load needs to be verified by the present Building Commissioner. The occupancy load need not be adjusted because of the 114 parking spaces but may need to be adjusted because of other Code requirements. In my view, these are two separate matters.
- B. Mixed martial arts events licensed by the MSAC are not a permitted or accessory use and require an amendment to the Zoning By-Laws.
- C. The above issues need to be resolved before any regulations and conditions are developed. In the event the Zoning By-laws are amended, then the Board, as a licensing authority, may consider promulgating reasonable rules and conditions on the license to avoid the creation of a nuisance or endangering the public health, safety, or order, and to address such matters as traffic, disruptive conduct, and noise. In addition, regulations and conditions should also address police and security details, the alignment and securing of the chairs and benches, and, if necessary, emergency lighting.

Please call me if you have any questions or to discuss.

Sincerely yours,

Charles J. Zaroulis

Town Counsel

CJZ/jrz

cc:

Board of Selectmen

Mr. Paul Welcome, Building Commissioner

Opinion File 2010



Town of Tyngsborough Building Department

25 Bryants Lane Tyngsborough, Massachusetts 01879 Office: (978) 649-2300 Ext. 112 2010 DEC 29 PK 1:02

POALL OF L. COTMENTY WEST TYNESTON ROLL OF MA.

December 28, 2010

Mr. Michael Gilleberto Town Administrator 25 Bryants Lane Tyngsborough, MA 01879

Re: Tyngsborough Sports Center 18 Progress Ave. Occupant Load.

After reviewing the information on the change of occupant load of the Tyngsborough Sports Center supplied by Paul Davies and Associates, it appears that the occupant load as calculated per 780 CMR Table 1009.2 Egress Width per occupant. The occupant, load of 1200, as calculated, meets the Building Code in respect to 780 CMR 1009.2 Egress Width.

But it appears that Mr. Davies failed to address other sections of the building and plumbing code, toilet and lavatory requirements per CMR 248.10.10 Table 1: Minimum Facilities for Building Occupancy.

In my opinion this building must be recertified using all required elements per 780 CMR 1008.0 and 248 CMR 10.10 to determine the correct occupant load of this building, along with separate floor plans showing how each event will be setup. Tables, chairs, egress, aisles, ring location, and calculate occupant load for each event.

Respectfully,

Paul L. Welcome

Building Commissioner

Cc:

Board of Selectmen

Attorney Charles J. Zaroulis, 40 Church Street, Suite 500, Lowell, MA 01852

Enclosure

PLW/dlm

780 CMR 1008.0 OCCUPANT LOAD

1008.1 Design occupant load: In determining required facilities, the number of occupants for whom *exit* facilities shall be provided shall be established by the largest number computed in accordance with 780 CMR 1008.1.1 through 1008.1.3.

1008.1.1 Actual number: The actual number of occupants for whom each occupied space, floor or building is designed.

1008.1.2 Number by Table 1008.1.2: The number of occupants computed at the rate of one occupant per unit of area as prescribed in Table 1008.1.2.

1008.1.3 Number by combination: The number of occupants of any space as computed in 780 CMR 1008.1.1 or 1008.1.2 plus the number of occupants similarly computed for all spaces that discharge through the space in order to gain access to an *exit*.

1008.1.4 Increased occupant load: The occupant load permitted in any building or portion thereof is permitted to be increased from that number established for the occupancies in Table 1008.1.2 provided that all other requirements of 780 CMR are also met based on such modified number. Where required by the code official, an approved aisle, seating or fixed equipment diagram to substantiate any increase in occupant load shall be submitted. Where required by the code official, such diagram shall be posted.



Building	Use	Toil	ets		Lavatories		Bath/Shower	Other	Pertinent Regulations 248 CMR
Clarification	Group	Females	Males	Males	Each Sex	Fountain		Fixtures	.10.10(19)
Theaters	A-I	1 per 30	1 per 60	50%	1 per 100	1 per 1000		1 service sink perfloor	(b), (i)1., (m), (n), (p)
Nightclubs, Pubs	A-2	1 per 30	1 per 50	50%	1 per 75				(b), (m), (n) (p)
Restaurants	A-3	1 per 30	1 per 60	50%	1 per 200				(b), (m), (n)
Hall, Museums, Libraries Etc.	A-3	1 per 50	1 per 100	50%	1 per 200			·	(b), (i)1., (m), (n), (p)
Cottomine Avenus		1 per 30	1 per - 60	50%	1 per 150				(b), (i)1., (m), (n), (p)
House of Worship	A-4	1 per 50	1 per 100	50%	1 per 200				(b), (c), (m) (n), (p)
Stadiums Etc.	A-5	1 per 30	1 per 60	50%	1 per 150				(i)1., (m), (n), (p)
Pool	A-5	1 per 40 bathers	1 per 40 bathers	33%	1 per 60 bathers	At least one source	1 for every 40 bathers	·	(i)1., (m), (n), (p). See 105 CMR for bather load.
Bathing (Public Beaches)		1 per 200	1 per 500	33%	1 per 1000		1 per 1000	1 Service . Sink	(d), (m), (t) (p)
Day Care Facility (Child)	E-1-3	1 per 20	1 per 20		1 per 20			l Service Sink	(e), (m), (n)
(Staff)	N/A.	1 per 20	1 per 25	33%	1 per 40				(i), (m), (n), (p)
Detention Facility (Detainee)	I-3	l per 6	l per 8	33%	1 per 6		1 per 8		(f), (m), (p)
(Staff)	N/A	1 per 20	1 per 25	33%	1 per 40				(i), (m), (n), (p)
Dwellings (Single)	R				Group and O				(o), (q)
(Multiple)	R	On	e Bathro	om Grou	p and One K	itchen Sink	per Unit		(o), (q)
(Hotel/Motel)	R				гоот Стоир	per Unit			(m), (q)
(Dormitories)	R-2	1 per 6	1 per 8	33%	1 per 8		1 per 8	1 Service Sink per Floor	(g), (m), (n) (p)
Educational (Kindergarten)	E	1 per 20	1 per 20		1 per 20	1 per 75			(h), (i), (m), (n), (p)
(Elementary)	E	1 per 30	1 per 60	1 per 60	1 per 60	1 per 75		1	
(Secondary)	E	1 per 30	1 per 90	1 per 90	1 per 90	1 per 75		Service Sink Per Floor	
(Post Secondary)	E	1 per 90	1 per 180	1 per 180	1 per 180	1 per 75		1001	
Staff)	E	1 per 20	1 per 25	33%	1 per 40				
Employee (Non- Industrial)*		1 per 20	1 per 25	33%	1 per 40		1 per 15*	l Service Sink per Floor	(i), (m), (n) (p)
Building Clarification	. Use Group	Toil Females		Urinals Males	Lavatories Each Sex	Drinking Fountsin		Other Fixtures	Pertinent Regulation 248 CMR 10.10(19)



Michael Gilleberto < mgilleberto@tyngsboroughma.gov>

Tyngsboro Sports Center

Michael P. Gilleberto < mgilleberto@tyngsboroughma.gov>

Fri, Dec 10, 2010 at 10:45

To: Paul Welcome <pwelcome@tyngsboroughma.gov>, "Charles J. Zaroulis" <charles.zaroulis@verizon.net> Cc: Therese Gay <tgay@tyngsboroughma.gov>

Paul and Charles:

Thank you for attending Monday night's Selectmen's meeting.

As you heard, there are three specific questions outstanding:

- First, a determination is required as to the occupancy load of the building -- specifically, as to
 whether or not the occupancy is limited by the number of parking spots. Attached please find the
 recent opinion of former Interim Building Commissioner Donald Crowell.
- Second, a determination is required as to whether or not certain activities are permitted under the
 special permit. Attached please find the pending entertainment license request, a detailed listing of
 activities proposed by the owner, a copy of the special permit for the property, and associated
 applications and feedback from the Special Permit process. A further determination is required as to
 any actions required by the petitioner and/or the Selectmen to address any activities that are not
 permitted under the current Special Permit. An earlier opinion of the Interim Building Commissioner is
 also attached.
- Third, a review of other regulatory possibilities is required (local regulations, etc) to govern this type
 of event. After consulting with Kopelman and Page, their opinion was that there is already significant
 event-specific regulation in place at the state level.

The Selectmen will reconvene a hearing on the Entertainment License request on Monday, January 3rd. Charles. Therese will be sending you the information you requested regarding Skate III under separate cover.

Please do not hesitate to contact me with any questions you might have.

Sincerely,

Michael

Michael P. Gilleberto Town Administrator Town of Tyngsborough

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Town of Tyngsborough Building Department

25 Bryants Lane Tyngsborough, Massachusetts 01879 Office: (978) 649-2300 Ext. 112 2010 DEC -2 PH 2: 22

BOARD FF JOLLUTMEN TYNGSBORULGH, MA.

December 2, 2010

Michael Gilleberto Town Administrator 25 Bryants Lane Tyngsborough, MA 01879

Post-it® Fax Note 7671	Date 2/2/10 pages 8
To harles Torontes	From Therese Day
Co./Dept.	Co.
Phone #	Phone # 678 649-2314
Fax #978 937-0950	Fax#

Re:

Tyngsborough Sports Center

18 Progress Avenue

I have reviewed the files pertaining to the yearly certificate for this property. I found the following:

- 1. Certificates from 1/1/2007 to 12/31/2009 show a total occupancy load of 650 with a total of 114 parking spaces provided.
- On March 13, 2008 the Building Department received a stamped letter from Paul Davies Assoc. Architects, calculating a new occupancy load of 1200, at that time a new certificate was issued showing the new capacity.
- 3. Parking spaces of 114 provided has not changed.

It is my opinion Mr. Davies has not used the parking requirements section 3.10.24 and occupancy load ratio to get this figure.

I would require the owners to have this re-certified.

Respectfully,

Donald A. Crowell Building Commissioner

DAC/dlm

Enclosure

. TOTAL PARCEL AREA = 4.76 AC.

TOTAL UPLAND AREA = 4.11 AC.

TOTAL NET PARCEL AREA = 4.01 AC.±

TABLE ZONING DIMENSIONAL REQUIREMENT

DESCRIPTION	REQUIRED	PROVIDED
LOT AREA	80.000 SF	001 010
TO THE TOTAL		TS 000, 02
LOI FROM AGE	200 FT	407.20 FT
LOT WIDTH	100 FT	1,000
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BLDG. SIDF YARD SETBACK	T. 07	
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BLDG. REAR YARD SETBACK	40 FT	T-1 07 /
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MIN. OPEN SPACE	25 %	> 25 %
MAX BILLIDING HEIGHT	\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	8,00
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PARKING & LOADING TABLE

PROVIDED	114	0) u) -	0
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DESCRIPTION	TOTAL PARKING SPACES	COMPACT PARKING SPACES	HANDICAP SPACES	HANDICAP VAN SPACES	LOADING BERTH

* TO BE DETERMINED BY THE TYNGSBOROUGH BOARD OF SELECTMAN

STIMATED PARKING DEMAND

ţ				Col Marine	Ÿ
REOLIBED		4	30	111	
DESCRIPTION	CARTING CAGE	GOLF SIMULATOR	BIRTHDAY ROOMS	TOTAL	

GENERAL NOTES

- 1. PROPERTY LINE INFORMATION FROM PLAN ENTILTED; DEFINITIVE SUBDIVISION APPLEWOOD CONSTRUCTION PARK, DATED; MARCH 25, 1997, PREPARED 6 DIVERSIFIED CIVIL ENGINEERING
 - 2. WETLAND INFORMATION FROM PLAN ENTILTED; DEFINITIVE SUBDIVISION PLAN APPLEWOOD CONSTRUCTION PARK, DATED; MARCH 25, 1997, PREPARED BY DIVERSIFIED CIVIL, ENGINEERING
 - 3. TOPOGRAPHY FROM FIELD SURVEY PERFORMED BY MARCHIONDA & ASSOCIATION SET AND WAS BASED ON VERTICAL DATUM ESTABLISMENTE APPROVED SEWER EXTENSION PLANS FOR THE APPLEWOOD CONSTRUCT DATED; DEC. 2, 1997, PREPARED BY DIVERSIFIED CIVIL ENGINEERING.
 - ANNER OF RECORD; APPLEWOOD CONSTRUCTION CORP. 215 MIDDLESEX ROAD
 - DEED REFERENCE, DEED BK. 8610 PAGE

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- 6. ASSESSORS MAP 13 PARCELS 37 & 38
- 7. STREET ADDRESS; 18 & 24 PROGRESS AVENUE
- 8. THE PROPERTY IS NOT LOCATED WITH IN THE F.E.M.A. 100 FLOOD ZONE. (COMM. PANEL NO. 250220 0010 B, DATED; 9/2/82)



The Commonwealth of Massachusetts

TOWN OF TYNGSBOROUGH

In accordance with the Massachusetts State Building Cods, Section 108.15, this

CERTIFICATE OF INSPECTION

is tasued toTyngsborough Sports Center $oldsymbol{eta}$ -S
Certify that I have inspected the premises Tyngsborough Sports Center located at
inspected the premises Ave.
inspected thepremises

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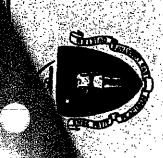


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TOWN OF TYNGSBOROUGH

In accordance with the Massachusetts State Building Cods, Section 108, 16

CERTIFICATE OF INSPECTION

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The building official shall be notified within (10) days of any changes in the above information.

Date Certificate Empires



The Commonneralth of Mannarhunetts

TOWN OF TYNGSBOROUGH

POST ON SITE

In accordance with the Massachusetts State Building Cods, Section 108.15, this OF INSPECTION CERTIFICATE

is issued to ... Tyngsborough Sports Center

Certify that I have inspected the.,, premises Located at... Progress AVE.

in the . Town Tyngsborough

County of. Middlesex.....Commonwealth of Massachusetts. The means of egress are sufficient for the following

Capacity Story Capacity Story BY PLACE OF ASSEMBLY OR STRUCTURE BY STORY Capacity Story Capacity Place of Assembly 1,200 Story

Location Date Certificate Issued Capacity 1/1/09 or Structure Certificate Number

Date Certificate Expires

12/31/09

Location

Capacity

Place of Assembly

The building official shall be notified within (10) days of any changes in the above information.



Paul Davies Assoc., Architects

March 13, 2008

Tyngsborough Sports Center Progress Ave Tyngsborough, MA

First Floor: $200^{\circ} \times 200^{\circ} = 40,000 \text{ Sq Ft}$

Mezz Level: $50^{\circ} \times 100^{\circ} = 5{,}000 \text{ Sq Ft}$

Use Group A-3 Assembly

Occupancy Requested:

1200 occupants

Table 1009.2 Egress Width Per Occupant

With Sprinklers:

Stairways:

0.20

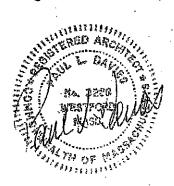
Doors:

0.15

Egress in place – First Floor – 4 - 36" wide doors (4 x 36 = 144"), 1 - 4'-0" wide stair (48"/0.20 = 240) leading to 1-36" wide door at Mezz Level. Total Egress Inches = 180". 180/0.15 = 1200 occupants.

1 additional 36" wide door at Mezz Level would allow for (36/0.15 = 240) occupants at this level.

Paul L Davies, AIA MA Registration 3280



TRANSACTION REPORT

P. 01

DEC-02-2010 THU 03:01 PM

FOR:

DATE START RECEIVER	TX TIME	PAGES TYPE	NOTE	M# DP x
DEC-02 02:57 PM 89789370950	3′ 25″	8 SEND	OK	855 x

PENDING APPLICATION TOWN OF TYNGSBOROUGH APPLICATION FOR WEEKDAY ENTERTAINMENT Date: In accordance with Massachusetts General law, Chapter 140, section 183A, hereby requests a weekday entertain license for: Establishment: Una Shoro Address: Weekday Entertainment at the above mentioned establishment will include the following: Dancing by patrons Vocalists Disc Jockey Jukebox Orchestra (please state number of pieces) Bands (please state number of pieces). Floor Show (please describe) Television Radio/Stereo Piped in Music OTHER: (please describe fully) Sac Agran Please use additional pages as needed to fully describe the type and scope of the proposed entertainment. PLEASE NOTE: Should you be granted a license, only those activities specifically identified in this application form will be deemed licensed, and that any activity not specifically identified or described will not be deemed to be licensed. HOURS WHICH ENTERTAINMENT WILL BE CONDUCTED Monday Tuesday Wednesday 9<u>4</u> to _

I agree not to change the type of entertainment provided in my establishment without the prior

Thursday

Saturday

Signature of Licensee:

Friday

94

94

written permission of the Local Licensing Authority.

2 of 4 PENDING APPLICATION

- 1. Charitable Tournaments
 - 2. Charitable Fundraising Events (Socials, Dances, etc)
 - 3. Non-gambling and Charity Poker Tournaments
 - 4. Flea Markets
 - 5. Trade Shows
 - 6. Mixed Martial Arts events
 - 7. Wrestling events
 - 8. Birthdays (Children and Adult)
 - 9. Other Public Amusement events
 - 10. Sleep-ins

3 of 4 pension Apprecia

TOWN OF TYNGSBOROUGH APPLICATION FOR SUNDAY ENTERTAINMENT

Date: _10 27/10		
) Date:		7612 DC7 27 17 17 18 14
· ·	h Massachusetts General law, Chapter 136 and 140, ay entertain license for:	section 183A, hereby
Establishment:	Tyngsboro - Sports Center	· · · · · · · · · · · · · · · · · · ·
Address:	Tynessboro - Sports Center 17 Progress Aug. Tynesboro, ma 01879	
<u> </u>	Tyrig bore , ma 01879	-
	ument at the above mentioned establishment will inc	lude the following:
	Dancing by patrons	
	Vocalists	
	Disc Jockey	
	Jukebox	•
	Orchestra (please state number of pieces)	•
1(5)	Bands (please state number of pieces)	
	Floor Show (please describe)	•
	Change merserine!	
ř		•
**************************************	Television	•
	Radio/Stereo	
<u> </u>	Piped in Music	•
<u></u>	OTHER: (please describe fully)	
	See attacked	
specifically identified	al pages as needed to fully describe the type and scor ASE NOTE: Should you be granted a license, only to d in this application form will be deemed licensed, an d or described will not be deemed to be licensed,	
H	OURS WHICH ENTERTAINMENT WILL BE CONDUCT	<u>red</u>
Sunday	1:00 P.M. to	
agree not to change	e the type of entertainment provided in my establishm of the Local Licensing Authority.	nent without the prior
Signature of Licenses	4	
S		· · · · · · · · · · · · · · · · · · ·
· · · · · · · · · · · · · · · · · · ·	C. C	

1 of 4 pension application

- 1. Charitable Tournaments
- 2. Charitable Fundraising Events (Socials, Dances, etc)
- 3. Non-gambling and Charity Poker Tournaments
- 4. Flea Markets
- 5. Trade Shows
- 6. Mixed Martial Arts events
- 7. Wrestling events
- 8. Birthdays (Children and Adult)
- 9. Other Public Amusement events
- Sleep-ins 10.



I, Darrel Wickens, on behalf of Tyngsboro Sports Center, agree to extend the deadline for a decision on the entertainment license request dated October 27, 2010 to January 3rd, 2011.

Signed:

Dated: 12-1-10

Darrel Wickens



1. Charitable Tournaments

a. Charitable Tournaments are defined as sports related events where soccer, flag football, lacrosse or other sport is played in a tournament style. The sports are typically bracketed where teams will play each other and the winners advance throughout creating a final two team culminating in a champion. The event is usually ticketed (at door) and a set percentage goes to the charity. Food and drink are sold by TSC and a portion of those proceeds go to the charity.

2. Charitable Fundraising Events (Socials, Dances, etc)

a. Charitable Fundraising Events are in the form of social gatherings, dances or even a sports theme where the goal is to fundraise for a certain cause, person or drive. Examples may be the Tyngsboro Youth Council holding an event where it is a social gathering consisting of tables/chairs, a buffet style food offering, silent or live auctions and a disc jockey providing the musical component.

3. Non-gambling and Charity Poker Tournaments

a. Non-gambling and Charity Poker Tournaments are defined as events where the main component of the fundraising efforts is done through a poker style tournament. A portion of the proceeds goes to the charity.

4. Flea Markets

a. Flea Markets or Indoor Yard/Tag Sales are defined as events where vendors purchase table space from the Tyngsboro Sports Center (TSC) to sell their wares/services. TSC charges a nominal fee at the door for entrance and provides a food and drink service at the event. No alcohol is served at these events. The Flea Markets may go multiple days and generally are from 7am – 4pm.

5. Trade Shows

a. Trade Shows or Exhibitions are defined as an event where good and services in a specific industry are exhibited and demonstrated. This event is organized and orchestrated by a group representing the industry itself. Booths and displays are set up in the facility and attendees are ticketed for entry.

6. Mixed Martial Arts Events

7. Mixed Martial Arts is defined as any form of unarmed combat involving the use of a combination of techniques including but not limited to, grappling, kicking, and striking, commonly associated with boxing, kickboxing, wrestling and various disciplines of the martial arts including, but not limited to, karate, kung fu, tae kwon do, Jiu-Jitsu or any combination thereof.

8. Wrestling Events

a. Wrestling events are defined as any form of unarmed combat using various wrestling techniques. These events use either amateur or professional wrestlers and provide a form of entertainment.

9. Birthdays (Children and Adult)

a. Birthday parties are offered for children through adults. The children's birthday packages commonly include time on the turf field playing their favorite sports, pizza and drink and tokens for the onsite arcade. The adult parties are specifically designed individually but generally include time on the turf fields playing sports and ending with food and drink.

10. Sleep-ins

a. Sleep-ins are events where a group of people, typically from an organization such as the Boy Scouts, Cheerleaders, Football or Baseball teams and the like where the purpose is to play games at the facility for team building purposes. The group remains at the facility throughout the evening hours and overnight. The group then departs the facility at a designated time in the morning.



Town of Tyngsborough

25 Bryants Lane Tyngsborough, MA 01879-1003

> Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320

Board of Selectmen Town Administrator Assistant Town Administrator

File No. <u>04-005</u>
Date Filed <u>08/31/04</u>

RECORD OF PROCEEDINGS ON APPLICATION FOR A SPECIAL PERMIT

Copies of this Record of Proceedings with all attachments must be filed within fourteen (14) days of a decision by the Board of Selectmen in the Office of the Town Clerk.

I, <u>Jacqueline M. Schnackertz</u>, Clerk of the Tyngsborough Board of Selectmen hereby certify that the following is a detailed record of all its proceedings relative to the application of

Name and Address of the Applicant Tyngsboro Sports Center, Inc.
P. O. Box 81, Tyngsborough, MA 01879
for a special permit under Section 4.10.00 of the Zoning Bylaw.
The Applicant desires to: Operate a Indoor Sports Center/Commercial Recreation.
The premises affected are located at <u>18 Progress Avenue</u> being in the <u>I-1</u> District, in which the above-mentioned use requires a Special Permit from the Board of Selectmen.
 On <u>June 03, 2004</u> an application of which a true copy marked "A" is made a part of this record, was presented to the Tyngsborough Board of Selectmen.
 Thereupon, an advertisement, a true copy of which marked "B" is made a part of this record, was published in the Lowell Sun a newspaper published in Lowell on June 28, 2004 (Date) and on July 06, 2004 (Date).

- 3. Notices of the hearing, a copy of which marked "C" is made a part of this record, were mailed postpaid to petitioner, parties in interest as specified in Section 11, Chapter 40A as amended.
- 4. On Monday, August 31, 2004, a hearing was held at the Town Hall 25 Bryants Lane at which opportunity was given to all those interested to be heard in favor or opposition to said petition, application at which hearing members were present: Selectwoman Karyn Puleo, Selectman Rich Lemoine, Selectwoman Jacqueline Schnackertz, Selectman Kevin O'Connor. Selectman Peter Nicosia, recused.
- 5. Following the hearing and based on the presentations during the hearing by the applicant and abutters, with regards to the Zoning Bylaw 2.11.50 the Board of Selectmen made the following specific findings regarding the land in question and the proposed use:

Is in harmony with the purpose and intent of this Bylaw. This business

as described is located in an I-1 district;

The proposed business should not be detrimental or injurious to the neighborhood in which it is to take place. The Tyngsboro Sports Center is located within a district along with other businesses:

The business is appropriate for the site in question. The business

will conform with other businesses;

Complies with all applicable requirements of this bylaw. The applicants have followed the bylaw has all necessary permits as required by the bylaw.

6. The Board voted at its meeting on Monday, August 31, 2004. As detailed below to DENY the application based on findings as recorded under item 5 herein for the following reasons:

X GRANT the application and the requested waivers subject to the following conditions that the sewer easement be redefined and reviewed by our Engineering Consultant Howe Surveying, Inc. Also, parking spaces have been set at 114. A bldg. sign facing Rte 3 is approved pending Building Commissioner's permit.

Members present and voting: Selectwoman Karyn Puleo, yes; Selectman Rich Lemoine, yes; Selectwoman Jacqueline Schnackertz, yes; Selectman Kevin O'Connor, yes; Selectman Peter Nicosia, recused. Vote - 4 in favor 1 recused 0 opposed the motion to grant passes.

Signature



Board of Selectmen Town Administrator Assistant Town Administrator

Town of Tyngsborough

25 Bryants Lane Tyngsborough, MA 01879-1003

> Tel: 978 649-2800 Ext. 100 Fax: 978 649-2320

File No. 00-005

NOTICE OF DECISION - SPECIAL PERMIT

Notice is hereby given that Special Permit has been granted		
To: Tyngsboro Sports Center, Inc.		
by the Town of Tyngsborough Board of Selectmen, affecting the rights of the		
owner with respect to the use of premises on 18 Progress Avenue		
shown on Assessors Map 13 as Lot(s) 37 & 38 , the record title standing		
in the name of		
whose address is P. O. Box 81, Tyngsborough, MA 01879.		
by a deed duly recorded in the North Middlesex Registry of Deeds		
in Book or North Middlesex Register District of the land		
Court Certificate No Book Page		
The application is attached and the decision of said Board is on file with the papers on this matter in the office of the Town Clerk.		
Certified this 31 day of August 31, 20 04.		
Board of Selectmen: TEVN V. 6 6 WM, Chairman Clerk		
Appeals of this decision under Chapter 40A, Section 17 must be taken within twenty (20) days of the filing of this decision with the Town Clerk		

	I certify no appeal has been received within twenty (20) days of the filing of this notice in my office, or that if an appeal haws been filed, that it has been dismissed or denied.
	Town Clerk: Date:
-	Having received certification from the Town Clerk, it shall be the responsibility of the <u>APPLICANT</u> to have recorded both the Special Permit Decision and Notice of Decision at the Registry of Deeds for the North Middlesex District and indexed in the grantor index under the name of the owner or record or recorded and noted on the owner's certificate of title. Fee for recording shall be paid by the owner or applicant. No building permits or certificate of occupancy shall be issued until this attestation is made.
	Received and entered with the Register of Deeds in the County of Middlesex, North, Book, Page
	, 20, ato'clock and minutes.
	Attest
	I cal would this page completed

APPLICATION FOR SPECIAL PERMIT BY THE TYNGSBOROUGH BOARD OF SELECTMEN ACTING AS

2004 JUN -3 AH 10: 03.

BOARD OF SELECTMEN TYNGSBOROUGH, MA.

SPECIAL PERMIT GRANTING AUTHORITY Name of Applicant Tungsboro P. 0 BOX FI TYNGS BUTO, MA 01879 Address of Applicant Tel # of Applicant 508-259-5247 Address/Location of Subject Property 17 Pagress Ave (Lots 3+4) Assessors Map #(s) 13 _Lot#(s)__37 + 38 Type of Use Applied For Compercial Recreation - Indoor Sports Complex (be specific) Under Section 4.10,00 of the Zoning By-laws Characteristics of Subject Property # of Lots 2 Area of Lot(s) 201,550. in Square Feet Present Use Vacont is Applicant the Owner of the Property? No , Pts a Hacked in poolings Is Applicant the Operator, Proprietor, or Manager of the Proposed Activity? No ____Not Applicable If Applicant is not the owner and operator (if no is checked on item 6 and/or 7) evidence of authority by affidavit or other legal instrument must be attached. Is such evidence attached? Yes No. I, the applicant, have reviewed the applicable section(s) of the Town's Zoning By-law as most recently amended? Yes No. I, the applicant, have reviewed the Rules and Regulations of the Special Permit

Granting Authority as most recently amended? Yes No.

Signature of Applicant

I hereby certify that the information given above and included with the application pursuant to the Rules and Regulations so promulgated by the Board of Selectmen acting a Special Permit Granting Authority is correct and to the best of my knowledge complete and accurate.

I hereby request a hearing before the Special Permit Granting Authority pursuant to the matter of and disposition of the application and agree to pay all fees so reguired, TICHTURER, TYNTIBORD SPOYET Signature of the Town Clerk As Town Clerk, I hereby certify that I have received this application for a Special Permit. Name Date Application received in Selectmen's Fourteen copies (14) of the Application packet Received by SPGA Application Fee(s) Received Postage Fees Received Date Project Review Fee(s) Received

Amount 8 4, 200.



REQUEST FOR COMMENT FORM

Date Re:	Inspectional Department Board of Selectmen G / 17 / 04 Request for Comment	
	TYPE OF LICENSE: Special Perm. +	
·	APPLICANT(S) NAME: Tyngsborough S	ports Center Inc. by Darry Wicker
	OWNER(S) NAME: Applewood Constr	vetion Corp. (Duns Property)
	NAME OF BUSINESS: Tyngsboro Spor	
	BUSINESS ADDRESS: 18 PORCES AVA	,
Depa	BUSINESS ADDRESS: 18 Progress AVE Commercial Recreption - Indoor Sportment:	cts Complex
Licen applic	The Board of Selectmen has received an appose/Permit. The Board requests that your Deposition and make any comments on it below a rate sheet. The return by: 6 / 34 / 04.	partment review the
	If your Agency <u>Must</u> take action prior to issuate action.	
	MENTS: Will nood to File with Con	<u> </u>
		•
	ture: Och Capra (Print)	Date: <u>Lo/17/64</u>
Signa		Date: <u>6/17/64</u> Date: <u>6/17/64</u>



Town of Tyngsborough Building Department JUL 23 PM 12: 06

25 Bryants Lane

Tyngsborough, Massachusetts OIBARD OF SELECTMEN Office: (978) 649-2300 Ext. 112 TYNGSBORDUGH, MA.

July 23, 2004

Board of Selectmen 25 Bryants Lane Tyngs. MA 01879

RE: Special Permit- 18 Progress Ave., Tyngsborough

Dear Board Members:

As requested, I have reviewed the submitted documents regarding the above-mentioned project.

Let me point out that, I have not been provided with all required information to make all conclusions, opinions and or compliance with Zoning By-laws.

The documents lack- floor plans and building elevations drawings.

Item #1-Parking Spaces:

- A. Zoning By-laws 3.10.24- Table of Off Street Parking Requirement "The number of spaces will be determined by the special permit granting authority."
- B. 3.10.43- Compact Spaces

The proposed use of building does not get this allowance of 30% which the applicant requests or has designed.

Item#1-1-Why are handicap spaces in two different locations?

Respectfully

Building Commissioner



Howe Surveying Associates, Inc.

Civil Engineers • Land Planners • Land Surveyors 13 AM 10: 53

12 August 2004

BOARD OF SELECTMEN TYNGSBORDUGH, MA.

Board of Selectmen 25 Bryants Lane Tyngsborough, MA 01879

RE: 18 Progress Road

Dear Board Members:

Howe Surveying has received the following information regarding the above referenced project:

- A set of drawings titled SITE PLAN LOTS 3 & 4 PROGRESS AVENUE
 APPLEWOOD COMMERCIAL PARK TYNGSBOROUGH, MASSACHUSETTS
 containing six sheets last revised on 7/21/04.
- E-mail from Darryl Wickens dated July 15, 204.
- Memo from Marchionda & Associates, L.P. dated 8/9/05 regarding the soil testing.

Based on a review of the information submitted, several items listed in the initial review have been adequately addressed. The following comments are offered for the Board's consideration.

- Cut/fill calculations were not submitted.
- 2. Sheet 5, the landscaping plan must be prepared by a Landscape Architect, not a Civil Engineer.
- 3. The building floor plan and elevations were not submitted. A copy of the floor plan was submitted but not the building elevations.
- 4. The parking table addressing the various uses in the building should be shown on the plan.

The table showing the breakdown of uses contained in the e-mail from Mr. Wickens should be included on the drawing.

- The application does not address the impact on surface water quality, groundwater levels, stream flows, vegetation removal, or wildlife habitat.
- A traffic study addressing the current and anticipated traffic at intersections 1,000 feet and one mile from the site was not submitted.
- 7. The sight distance for the proposed driveway should be shown.
 73 Princeton Street, Suite 303 No. Chelmsford, MA 01863 (978) 251-3132 Fax (978) 251-0509 www.howesurveying.com

The information contained in the letter from the engineer should be shown on the plan.

8. Information should be submitted regarding the proposed lighting showing that it meets requirements of the by-law.

The e-mail states that the lighting information would be submitted to the Building Inspector with the building plans.

9. The proposed contours should be shown on the east side of the site between the parking and Route 3.

The existing contours shown on the plan do not accurately show the current conditions in the field. There are portions of the existing slope that are nearly vertical. The plans should call for regarding of this area and aggressive measures of slope stabilization if the design is steeper than 3:1.

The revised plans show that the sewer line on the lot is outside the existing sewer easement. The easement location should be revised to encompass the line.

There are provisions in the regulations and the Zoning By-law that allow the Board to waive some of the requirements, if requested by the applicant.

If the Board has any questions regarding these comments, please do not hesitate to contact us.

If you have any questions concerning these comments, please call us.

Sincerely,

Howe Surveying Associates, Inc.

Jeffry 6. Rider Chief of Engineering

** Tyngsboro Sports 8/26/04 comments in bold

BOARD OF SELECTMEN TYNGSBOROUGH, MA.

12 August 200404

Board of Selectmen 25 Bryants Lane Tyngsborough, MA 01879

RE: 18 Progress Road

Dear Board Members:

Howe Surveying has received the following information regarding the above referenced project:

- ➤ A set of drawings titled SITE PLAN LOTS 3 & 4 PROGRESS AVENUE APPLEWOOD COMMERCIAL PARK TYNGSBOROUGH, MASSACHUSETTS containing six sheets last revised on 7/21/04.
- E-mail from Darryl Wickens dated July 15, 204.
- Memo from Marchionda & Associates, L.P. dated 8/9/05 regarding the soil testing.

Based on a review of the information submitted, several items listed in the initial review have been adequately addressed. The following comments are offered for the Board's consideration.

- 1. Cut/fill calculations were not submitted. Waiver Requested
- Sheet 5, the landscaping plan must be prepared by a Landscape Architect, not a Civil Engineer. Waiver Requested
- 3. The building floor plan and elevations were not submitted.

 A copy of the floor plan was submitted but not the building elevations. Conceptual Drawing to be supplied Tuesday evening
- 4. The parking table addressing the various uses in the building should be shown on the plan.

The table showing the breakdown of uses contained in the e-mail from Mr. Wickens should be included on the drawing. Completed

5. The application does not address the impact on surface water quality, groundwater levels, stream flows, vegetation removal, or wildlife habitat. Waiver Request

- A traffic study addressing the current and anticipated traffic at intersections 1,000 feet and one mile from the site was not submitted. Waiver Request
- 7. The sight distance for the proposed driveway should be shown.

 The information contained in the letter from the engineer should be shown on the plan. Completed
- 8. Information should be submitted regarding the proposed lighting showing that it meets requirements of the by-law.

The e-mail states that the lighting information would be submitted to the Building Inspector with the building plans. To be supplied to the Board on Tuesday evening

The proposed contours should be shown on the east side of the site between the parking and Route 3.

The existing contours shown on the plan do not accurately show the current conditions in the field. There are portions of the existing slope that are nearly vertical. The plans should call for regarding of this area and aggressive measures of slope stabilization if the design is steeper than 3:1.

The Town's consulting engineer is satisfied with Marchionda's change on plan

The revised plans show that the sewer line on the lot is outside the existing sewer easement. The easement location should be revised to encompass the line.

An Easement is being redrawn by Applewood Construction to reflect actual location of sewer line. Every attempt is being made to refine that easement before the August 31st hearing but in the event that is not accomplished the Board may entertain approval conditioned on this being completed.

There are provisions in the regulations and the Zoning By-law that allow the Board to waive some of the requirements, if requested by the applicant.

If the Board has any questions regarding these comments, please do not hesitate to contact us.

If you have any questions concerning these comments, please call us.

Sincerely, Howe Surveying Associates, Inc.

Jeffrey S. Rider Chief of Engineering

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A traffic study for the entire industrial park was done for Applewood Construction while the site was originally in front of the Planning Board. The town approved the project with those projections and with a fully developed park. We believe our traffic will be a small percentage of the overall estimated number in the traffic study and, furthermore, the traffic entering and exiting from our business will be during opposite hours from all other businesses in the park causing much less congestion.

Thank you for your consideration and we will be pleased to answer any questions you may have regarding any of these items.

Best Regards,

Darryl Wickens

Tyngsboro Sports Center, Inc.



Howe Surveying Associates, Inc.

Civil Engineers • Land Planners • Land Surveyors JUL 19 PM 2: 37

15 July 2004

BOARD OF SELECTMEN TYNGSBOROUGH, MA.

Board of Selectmen 25 Bryants Lane Tyngsborough, MA 01879

RE: Lots 3& 4 Applewood Commercial Park, 18 Progress Road

Dear Board Members:

Howe Surveying Associates, Inc. (HSA) has reviewed the following revised documents related to the above referenced site:

A set of drawings titled SITE PLAN LOTS 3 & 4 PROGRESS AVENUE APPLEWOOD COMMERCIAL PARK TYNGSBOROUGH, MASSACHUSETTS containing seven sheets last revised 8 July 2004.

Letter from Marchionda & Associates, L. P. to HSA dated 9 July 2004.

The following comments are the same as contained in the original letter of 2 July 2004. Updated comments based on the revised submittal are noted in italics.

1. The letter and drawings state that there are 128 parking spaces proposed, page five of the narrative states 130. There are 128 spaces shown on the plan, however three of them do not meet the minimum dimensions for regular spaces. The plans also show that 38 of the spaces are for compact cars, which is the maximum percentage allowed.

Two of the spaces have been revised to meet the size requirement one remains undersized. The Board may want to consider allowing the space to remain but not count it since it does not meet the regulations.

2. The narrative states that there will be a 30 minutes between sessions on the main areas. HSA has a concern that this would not be enough time for one group the clear the area, change and leave the parking lot before the next group starts arriving.

No response from the engineer.

- Additional information needs to be submitted regarding the parking needs for the staff at the center, those using the using the bating cages and golf facilities.
 No response from the engineer.
- 4. The applicant plans to use the site for parties, corporate meetings, clinics, tournaments, camps, and rentals for fundraising activities. Information should be submitted the expected scheduling and parking needs for these activities as well. No response from the engineer.

Project Name: TyngEng/BOS/18 Progress 15 July 2004 Page 2 of 5

5. The narrative states that a floor plan was submitted; however, it was not included in the package for review.

No response from the engineer.

The plan does not show the name and address of the applicant or the address of the owner.

Resolved.

7. The plan does not show the full lot or the stamp and signature of the surveyor that prepared the plan.

Resolved.

- 8. The plan should show the current abutters. Resolved.
- 9. A plan showing the abutters within 300 feet was not submitted, a certified abutters list was include with the application.

 Resolved.
- 10. A plan showing all buildings, wells, septic systems or public or common areas within 300 feet was not submitted.

 Resolved.
- 11. The wording of the existing easement and any deed restrictions on the property were not submitted.

No response from the engineer.

- 12. The registry of deeds certification was not included on the drawings. Resolved.
- 13. Cut/fill calculations were not submitted. No response from the engineer.
- The plan should show the proposed sign locations, fire lane designation, and loading or delivery areas.
 Resolved.
- 15. Sheet 5, the landscaping plan must be prepared by a Landscape Architect, not a Civil Engineer.

No response from the engineer.

- 16. The building floor plan and elevations were not submitted. No response from the engineer.
- 17. The parking table addressing the various uses in the building should be shown on the plan.

No response from the engineer.

18. The application does not address the impact on surface water quality, groundwater levels, stream flows, vegetation removal, or wildlife habitat.
No response from the engineer.

- 19. A traffic study addressing the current and anticipated traffic at intersections 1,000 feet and one mile from the site was not submitted.
 No response from the engineer.
- 20. The distance from the edge of the parking in front of the building to the front property line should be shown on the plan.

 Resolved.
- 21. The sight distance for the proposed driveway should be shown. The information contained in the letter from the engineer should be shown on the plan.
- 22. The three short parking spaces behind the building do not meet the size required for regular spaces and exceed the allowable number of compact spaces. See comment one.
- 23. The engineer should review the turning radii used. It does not appear that a single unit design vehicle can enter or exit the site or turn into the area in front of the building.

The single unit design vehicle cannot enter or exit the site without crossing into the other lane on the street or using most of the width of the driveway. It also cannot turn right from the entrance to the aisle in front of the building without crossing over some of the parking spaces adjacent to the front of the building.

24. It appears that two additional trees are needed around the site within 30 feet of the parking.

The number of trees now meet the regulations, however they may be better utilized if placed in front of the lot as opposed to being adjacent to the heavily wooded Route 3 area.

- 25. The landscaped island at the end of the parking lanes need three trees per island. Resolved.
- 26. Information should be submitted regarding the proposed lighting showing that it meets requirements of the by-law.
 No response from the engineer.
- 27. The symbol for riprap should be added to the legend. Resolved.
- 28. The west end of the hay bale line should be turned up hill to help contain the sediment.

Resolved.

29. Temporary sediment controls should be shown around the catchbasins and the entrance to the site. Resolved.

- 30. Information on the proposed sewer manhole should be shown on the plan. Resolved.
- 31. Temporary erosion controls should be installed to protect the Route 3 right- ofway and the abutter. Resolved.
- 32. The plan shows one of the proposed snow storage areas to be on the hill adjacent to Route 3, however there is a question as to useful this area be given the steep slope of the hill. Resolved
- 33. The proposed contours should be shown on the east side of the site between the parking and Route 3.

The existing contours shown on the plan do not accurately show the current conditions in the field. There are portions of the existing slope that are nearly vertical. The plans should call for regarding of this area and aggressive measures of slope stabilization if the design is steeper than 3:1.

34. The scale shown on Figure 2 (Post-Development Subcatchment Plan) should be corrected.

Resolved.

- 35. The soil test pit locations should be shown on the plan. Resolved.
- 36. The plan shows a pipe from the fore bay to the retention pond but no information regarding the size, material slope, or invert elevations. The pipes are not included in the calculations nor shown in the details. Resolved.
- 37. Provisions should be shown for accessing the fore bay, retention pond and infiltration system for maintenance. Resolved.
- 38. It appears that there is less than two feet from the bottom of the infiltration system and the groundwater based on the information provided. Based on the location of the test pits shown on the plan and the depth to the water table listed in the soil logs it appears that the bottom of the infiltration system is at or below the water table.
- 39. The locations of the roof drain connections to the drain system should be shown. Resolved.

Project Name: TyngEng/BOS/18 Progress 15 July 2004 Page 5 of 5

The revised plans show that the sewer line on the lot is outside the existing sewer easement. The easement location should be revised to encompass the line.

If the Board has any questions regarding these comments, please do not hesitate to contact us.

Sincerely,

Howe Surveying Associates, Inc.

Jeffrey S. Rider

Chief of Engineering

CC: Marchionda & Associates, Inc.



Howe Surveying Associates, Inc.

Civil Engineers • Land Planners • Land Surveyed JUL -8 PH 12: 14

2 July 2004

BOARD OF SELECTMEN TYNGSBOROUGH, MA.

Board of Selectmen 25 Bryants Lane Tyngsborough, MA 01879

RE: Lots 3& 4 Applewood Commercial Park, 18 Progress Road

Dear Board Members:

Howe Surveying Associates, Inc. (HSA) has reviewed the following documents related to the above referenced site:

Drainage report titled HYDROLOGIC ANALYSIS LOTS 3 & 4 APPLEWOOD COMMERCIAL PARK TYNGSBOROUGH, MASSACHUSETTS prepared by Marchionda & Associates, L.P., last revised 1 June 2004.

➤ A set of drawings titled SITE PLAN LOTS 3 & 4 PROGRESS AVENUE APPLEWOOD COMMERCIAL PARK TYNGSBOROUGH, MASSACHUSETTS containing six sheets.

> APPLICATION FOR SPECIAL PERMIT BY THE TYNGSBOROUGH BOARD OF SELECTMEN ACTING AS SPECIAL PERMIT GRANTING AUTHORITY

Letter from Darryl Wickens to Mr. Peter Nicosia, Chairman Town of Tyngsborough Board of Selectmen dated June 1, 2004 and six page narrative. HSA personnel also visited the site on 2 July 04 to observe the current conditions.

The following comments are offered for the Board's consideration:

- 1. The letter and drawings state that there are 128 parking spaces proposed, page five of the narrative states 130. There are 128 spaces shown on the plan, however three of them do not meet the minimum dimensions for regular spaces. The plans also show that 38 of the spaces are for compact cars, which is the maximum percentage allowed.
- 2. The narrative states that there will be a 30 minutes between sessions on the main areas. HSA has a concern that this would not be enough time for one group the clear the area, change and leave the parking lot before the next group starts arriving.

3. Additional information needs to be submitted regarding the parking needs for the staff at the center, those using the using the bating cages and golf facilities.

4. The applicant plans on using the site for parties, corporate meetings, clinics, tournaments, camps and rentals for fundraising activities. Information should be submitted the expected scheduling and parking needs for these activities as well.

5. The narrative states that a floor plan was submitted; however, it was not included in the package for review.

- The plan does not show the name and address of the applicant or the address of the owner.
- 7. The plan does not show the full lot or the stamp and signature of the surveyor that prepared the plan.

8. The plan should show the current abutters.

- 9. A plan showing the abutters within 300 feet was not submitted, a certified abutters list was include with the application.
- A plan showing all buildings, wells, septic systems or public or common areas within 300 feet was not submitted.
- 11. The wording of the existing easement and any deed restrictions on the property were not submitted.
- 12. The registry of deeds certification was not included on the drawings.

13. Cut/fill calculations were not submitted.

- 14. The plan should show the proposed sign locations, fire lane designation and loading or delivery areas.
- 15. Sheet 5, the landscaping plan must be prepared by a Landscape Architect, not a Civil Engineer.

16. The building floor plan and elevations were not submitted.

- 17. The parking table addressing the various uses in the building should be shown on the plan.
- 18. The application does not address the impact on surface water quality, groundwater levels, stream flows, vegetation removal or wildlife habitat.
- 19. A traffic study addressing the current and anticipated traffic at intersections 1,000 feet and one mile from the site was not submitted.
- 20. The distance from the edge of the parking in front of the building to the front property line should be shown on the plan.

21. The sight distance for the proposed driveway should be shown.

- 22. The three short parking spaces behind the building do not meet the size required for regular spaces and exceed the allowable number of compact spaces.
- 23. The engineer should review the turning radii used. It does not appear that a single unit design vehicle can enter or exit the site or turn into the area in front of the building.
- 24. It appears that two additional trees are needed around the site within 30 feet of the parking.
- 25. The landscaped island at the end of the parking lanes need three trees per island.
- 26. Information should be submitted regarding the proposed lighting showing that it meets requirements of the by-law.

27. The symbol for riprap should be added to the legend.

- 28. The west end of the hay bale line should be turned up hill to help contain the sediment.
- 29. Temporary sediment controls should be shown around the catchbasins and the entrance to the site.
- 30. Information on the proposed sewer manhole should be shown on the plan.
- 31. Temporary erosion controls should be installed to protect the Route 3 right-of-way and the abutter.

Project Name: Tyng Eng/BOS/18 Progress Date: 2 July 04

Page 3 of 3

- 32. The plan shows one of the proposed snow storage areas to be on the hill adjacent to Route 3, however there is a question as to useful this area be given the steep slope of the hill.
- 33. The proposed contours should be shown on the east side of the site between the parking and Route 3.
- 34. The scale shown on Figure 2 (Post-Development Subcatchment Plan) should be corrected

35. The soil test pit locations should be shown on the plan.

- 36. The plan shows a pipe from the fore bay to the retention pond but no information regarding the size, material slope, or invert elevations. The pipes are not included in the calculations nor shown in the details.
- 37. Provisions should be shown for accessing the fore bay, retention pond and infiltration system for maintenance.
- 38. It appears that there is less than two feet from the bottom of the infiltration system and the groundwater based on the information provided.
- 39. The locations of the roof drain connections to the drain system should be shown.

If the Board has any questions regarding these comments please do not hesitate to contact

Sincerely.

Howe Surveying Associates, Inc.

Jeffrey S. Rider

Chief of Engineering

CC: Marchionda & Associates, Inc.





Town of Tyngsborough Building Department

25 Bryants Lane Tyngsborough, Massachusetts 01879 Office: (978) 649-2300 Ext. 112 2017 OCT 12 171 2: 34

TYROSEOROUGH, MA.

October 12, 2010

Michael P. Gilleberto Town Administrator 25 Bryants Lane Tyngsborough, MA 01879

RE: Special Permit/Zoning - 18 Progress Avenue

? Crowler

Dear Michael,

As per your request, I reviewed the Special Permit and Zoning By-Laws for 18 Progress Avenue. Under Section 2.11.43, Commercial Recreation of the Zoning By-Laws, Mixed Martial Arts is neither a permitted use nor a prohibited use, at this time I would consult Town Counsel.

Respectfully,

Donald A. Crowell

Building Commissioner





November 29, 2010

Ms. Ashley O'Neill Chair, Tyngsborough Board of Selectmen 25 Bryant's Lane Tyngsborough, MA 01879

Dear Board of Selectmen,

Enclosed please find a copy of the Tyngsboro Sports Center's Facility Operating Procedures and Emergency Guide. You had requested an operating plan for the specific MMA events be provided and I thought it useful to take our existing Emergency Guide and augment it to include the specifics of the planned events. I have included the requirements from Safety, Security, Board of Health and the Inspectional services for all events that I have requested be added to my existing license (Section 4).

I look forward to our meeting on Monday, December 6 to review the plans and answer any questions you may have.

Best Regards,

Darryl Wickens
President, Tyngsboro Sports Center
55-0867037



TYNGSBORO SPORTS CENTER FACILITY OPERATING PROCEDURES AND EMERGENCY GUIDE

Tyngsboro Sports Center, 18 Progress Avenue, Tyngsboro, MA 01879 978-649-9393 www.tyngsborosportscenter.com



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1) EMERGENCY PHONE NUMBERS

a) All emergency phone numbers should be posted here.

i) Police: 911 ii) Fire: 911 iii) Rescue: 911

iv) Poison Control: 1-800-222-1222

2) LIFE THREATENING OR SERIOUS INJURIES

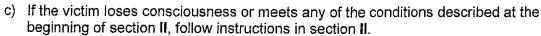
- a) Follow these instructions if the victim loses consciousness, stops breathing, has any bones visible, is bleeding severely, complains of back or neck pain, or you or the victim suspects he/she has broken bones or internal bleeding. Otherwise, see section III below.
- b) If you are certified in First Aid or CPR, administer care as appropriate and assign someone else to follow these instructions. If you are not certified, then:
- c) Call 911 immediately.
- d) You will be asked the following:
 - i) Address of the Emergency:

(a) 18 Progress Avenue, Tyngsboro, MA

- ii) Telephone number: 978-649-9393
- iii) Name of caller
- iv) Nature of the Emergency
- e) Assign a person to meet the ambulance at the street.
- f) Obtain the following information from the victim or from file if available:
 - i) Social Security Number
 - ii) Age
 - iii) Home Address
 - iv) Insurance carrier
 - v) Name of party responsible for charges
 - vi) Family contact information
- g) Make sure the victim is comfortable and kept warm.
- h) If the injured person is a minor, notify his parents. The contact information is located on file in the office of the sports center.
- If injury is to an athlete, notify coaches of the situation if they are not present.
- j) Fill out the incident report and be sure to document what happened and what measures were taken, the nature of the injury, where it took place, and exactly what medical attention was given.

3) NON-LIFE THREATENING INJURIES

- a) Do not administer First Aid or CPR unless you are appropriately certified.
- b) Do not attempt to move the injured person.



- d) Provide injured party with first aid kit (located in the office) and ice located in freezer in concession stand).
 - i) Contents of First Aid Kit: band-aids, smelling salts, gauze, ace-bandage
- e) Offer to call parent, guardian, spouse, taxi, etc. for injured person.
- f) Fill out the incident report and be sure to document what happened and what measures were taken, the nature of the injury, where it took place, and exactly what medical attention was given.

4) SPECIAL EVENTS

A special event is defined as any event at the facility that is not part of our regularly scheduled leagues, rentals, or birthday parties.

Special events are also defined, but not limited to, trade shows, comedy nights, charitable fundraising events, non gambling and Charity Poker Tournaments, Flea Markets, Mixed Martial events, wrestling events, and other amusement events.

The above events are further broken down by size of attendance for purposes of planning and operations.

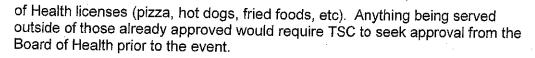
a) Charitable Tournaments/Events: Charitable Tournaments and events are defined as any sporting or social event (soccer, football, lacrosse, etc) where the event is geared at providing a source of fundraising revenue for the charity.

These events are attended typically by 50-300 people and may run 3-8 hours in length. Alcohol may or may not be a part of these events, depending on the type of event and planned attendees.

Security Plan: An individual operating plan will be developed for the specific event and all details contained in said plan (see Appendix A for sample plan). After discussion with the Chief of Police, the security plan portion of the overall plan will be developed based on his requirements/recommendations. If alcohol is to be served then there will be a police detail present (number of officers to be determined by Chief of Police). If there is no alcohol served the police may determine that only private security is required and no police presence needed.

Safety Plan: The safety of all patrons and employees is of utmost importance. Four days prior to the event date, TSC personnel will meet on site with Fire personnel to discuss building and access/egress safety. A review of the emergency procedures, emergency exits and lighting will be reviewed. Ensuring clear access to all egress doors will be reviewed. The event specifics will determine whether the Fire safety officer required Fire or EMT personnel at the event.

Food Service Plan: Food service for tournaments typically includes all offerings from the concession stand that has been approved under TSC's Board



Alcohol Service Plan: If alcohol is a component of the event then all standard operating requirements from the ABCC and local authorities are implemented. All guests are required to provide proof of age to a member of the security team. After verification through an electronic verification device where that identification is logged, the attendee will be fitted with an irremovable bracelet declaring they are eligible to purchase alcohol. All TIPS certified bartenders will only serve attendees with said bracelet and always have the option to require identification of proper age again if they believe it is required. All drinks are served in a plastic cup (no cans/bottles) and only two drinks may be purchased by each patron on each visit to the bar.

b) **Non Gambling and Charity Poker Events:** These events are defined as any non gambling or charity poker or gaming event where the purpose is to raise funds for a specific purpose.

These events are attended typically by 50-300 people and may run 3-8 hours in length. Alcohol may or may not be a part of these events, depending on the type of event and planned attendees.

Security Plan: An individual operating plan will be developed for the specific event and all details contained in said plan (see appendix A for blank plan). After discussion with the Chief of Police, the security plan portion of the overall plan will be developed based on his requirements/recommendations. If alcohol is to be served then there will be a police detail present (number of officers to be determined by Chief of Police). If there is no alcohol served the police may determine that only private security is required and no police presence needed.

Safety Plan: The safety of all patrons and employees is of utmost importance. Four days prior to the event date, TSC personnel will meet on site with Fire personnel to discuss building and access/egress safety. A review of the emergency procedures, emergency exits and lighting will be reviewed. Ensuring clear access to all egress doors will be reviewed. The event specifics will determine whether the Fire safety officer required Fire or EMT personnel at the event. The attached Appendix provides for details of the safety plan.

Food Service Plan: Food service for tournaments typically includes all offerings from the concession stand that has been approved under TSC's Board of Health licenses (pizza, hot dogs, fried foods, etc). Anything being served outside of those already approved would require TSC to seek approval from the Board of Health prior to the event.

Alcohol Service Plan: If alcohol is a component of the event then all standard operating requirements from the ABCC and local authorities are implemented. All guests are required to provide proof of age to a member of the security team. After verification through an electronic verification device where that identification is logged, the attendee will be fitted with an irremovable bracelet declaring they

are eligible to purchase alcohol. All TIPS certified bartenders will only serve attendees with said bracelet and always have the option to require identification of proper age again if they believe it is required. All drinks are served in a plastic cup (no cans/bottles) and only two drinks may be purchased by each patron on each visit to the bar.

c) Flea Markets: These events are defined as a marketplace of vendors either developed by TSC or an outside organization. The vendor marketplace are tables of their goods/services selling to paid attendees of the flea market.

These events are attended typically by 300-2,000 people and may run 8-10 per day over a one or two day period. Alcohol may or may not be a part of these events, depending on the type of event and planned attendees.

Security Plan: An individual operating plan will be developed for the specific event and all details contained in said plan (see appendix A for blank plan). After discussion with the Chief of Police, the security plan portion of the overall plan will be developed based on his requirements/recommendations. If alcohol is to be served then there will be a police detail present (number of officers to be determined by Chief of Police). If there is no alcohol served the police may determine that only private security is required and no police presence needed.

Safety Plan: The safety of all patrons and employees is of utmost importance. Four days prior to the event date, TSC personnel will meet on site with Fire personnel to discuss building and access/egress safety. A review of the emergency procedures, emergency exits and lighting will be reviewed. Ensuring clear access to all egress doors will be reviewed. The event specifics will determine whether the Fire safety officer required Fire or EMT personnel at the event. The attached Appendix provides for details of the safety plan.

Food Service Plan: Food service for tournaments typically includes all offerings from the concession stand that has been approved under TSC's Board of Health licenses (pizza, hot dogs, fried foods, etc). Anything being served outside of those already approved would require TSC to seek approval from the Board of Health prior to the event.

Alcohol Service Plan: If alcohol is a component of the event then all standard operating requirements from the ABCC and local authorities are implemented. All guests are required to provide proof of age to a member of the security team. After verification through an electronic verification device where that identification is logged, the attendee will be fitted with an irremovable bracelet declaring they are eligible to purchase alcohol. All TIPS certified bartenders will only serve attendees with said bracelet and always have the option to require identification of proper age again if they believe it is required. All drinks are served in a plastic cup (no cans/bottles) and only two drinks may be purchased by each patron on each visit to the bar.



d) **Trade Shows:** These events are defined as an outside organization that provides a venue for various groups to provide booths or tables displaying their goods and services.

These events are attended typically by 300-2,000 people and may run 8-10 per day over a one or two day period. Alcohol may or may not be a part of these events, depending on the type of event and planned attendees.

Security Plan: An individual operating plan will be developed for the specific event and all details contained in said plan (see appendix A for blank plan). After discussion with the Chief of Police, the security plan portion of the overall plan will be developed based on his requirements/recommendations. If alcohol is to be served then there will be a police detail present (number of officers to be determined by Chief of Police). If there is no alcohol served the police may determine that only private security is required and no police presence needed.

Safety Plan: The safety of all patrons and employees is of utmost importance. Four days prior to the event date, TSC personnel will meet on site with Fire personnel to discuss building and access/egress safety. A review of the emergency procedures, emergency exits and lighting will be reviewed. Ensuring clear access to all egress doors will be reviewed. The event specifics will determine whether the Fire safety officer required Fire or EMT personnel at the event. The attached Appendix provides for details of the safety plan.

Food Service Plan: Food service for tournaments typically includes all offerings from the concession stand that has been approved under TSC's Board of Health licenses (pizza, hot dogs, fried foods, etc). Anything being served outside of those already approved would require TSC to seek approval from the Board of Health prior to the event.

Alcohol Service Plan: If alcohol is a component of the event then all standard operating requirements from the ABCC and local authorities are implemented. All guests are required to provide proof of age to a member of the security team. After verification through an electronic verification device where that identification is logged, the attendee will be fitted with an irremovable bracelet declaring they are eligible to purchase alcohol. All TIPS certified bartenders will only serve attendees with said bracelet and always have the option to require identification of proper age again if they believe it is required. All drinks are served in a plastic cup (no cans/bottles) and only two drinks may be purchased by each patron on each visit to the bar.

e) **Mixed Martial Arts and Wresting Events:** These events are defined as organized, competitive professional or amateur boxing, mixed martial arts or unarmed combat events. The promoter or organization developing and managing the event may require state and/or local approvals for sanctioned events. These are private, ticketed events which are pre-sold or sold at the door the day/night of the event.



These events are attended typically by 100-1,200 people and generally run over a 5 hour period. Alcohol may or may not be a part of these events, depending on the type of event and planned attendees.

Security Plan: An individual operating plan will be developed for the specific event and all details contained in said plan (see appendix A for sample plan). After discussion with the Chief of Police, the security plan portion of the overall plan will be developed based on his requirements/recommendations. Due to the inability to accurately project the size of the audience for the MMA events, this plan will be completed for any/all MMA related events at TSC.

A meeting will be held no later than two weeks prior to the event to review the requirements. Attendees to that meeting must be:

- 1. Tyngsboro Chief of Police or designate
- 2. Supervisor of Security for Event Promoter
- 3. Promoter of Event
- 4. Owner of Tyngsboro Sports Center
- 5. Tyngsboro Fire Chief (optional)
- 6. Tyngsboro Building Inspector (optional)

That meeting will provide the requirements and all listed will work towards fulfilling those requirements. No later than three days prior to the event a final meeting will be held to finalize and sign off on the security plan.

If alcohol is to be served then there must be a police detail present (number of officers to be determined by Chief of Police from Security Plan). If there is no alcohol served the police may determine that only private security is required and no police presence needed.

Private security will also be present and the types and numbers required will be determined by the owner, promoter and Chief of Police. This requirement will be set forth in a meeting no later than two weeks prior to the event. The final plan and meeting will be completed and signed off on no later than three days prior to the event. Private security will be used to augment the Police detail and provide security at the entrances and around the ring area.

Parking attendants will be provided at the ends of Progress Avenue to direct cars to parking locations. Additional parking attendants will be provided along Progress Avenue to assist in the orderly parking of cars. Progress Avenue will be kept open and available to any emergency vehicle needing to enter or exit the event.

Safety Plan: The safety of all patrons and employees is of utmost importance. Four days prior to the event date, TSC personnel will meet on site with Fire personnel to discuss building and access/egress safety. A review of the emergency procedures, emergency exits and lighting will be reviewed. Ensuring clear access to all egress doors will be reviewed. The event specifics will determine whether the Fire safety officer required Fire or EMT personnel at the event. The attached Appendix provides for details of the security/safety plan.



Parking attendants will be provided at the ends of Progress Avenue to direct cars to parking locations. Additional parking attendants will be provided along Progress Avenue to assist in the orderly parking of cars. Progress Avenue will be kept open and available to any emergency vehicle needing to enter or exit the event.

Parking attendants will be provided at the ends of Progress Avenue to direct cars to parking locations. Additional parking attendants will be provided along Progress Avenue to assist in the orderly parking of cars. Progress Avenue will be kept open and available to any emergency vehicle needing to enter or exit the event.

Food Service Plan: Food service for tournaments typically includes all offerings from the concession stand that has been approved under TSC's Board of Health licenses (pizza, hot dogs, fried foods, etc). Anything being served outside of those already approved would require TSC to seek approval from the Board of Health prior to the event.

The morning after the event, TSC staff will be provided to pick up any refuse left behind from the event on Progress Avenue and any adjacent lots.

Alcohol Service Plan: If alcohol is a component of the event then all standard operating requirements from the ABCC and local authorities are implemented. All guests are required to provide proof of age to a member of the security team. After verification through an electronic verification device where that identification is logged, the attendee will be fitted with an irremovable bracelet declaring they are eligible to purchase alcohol. All TIPS certified bartenders will only serve attendees with said bracelet and always have the option to require identification of proper age again if they believe it is required. All drinks are served in a plastic cup (no cans/bottles) and only two drinks may be purchased by each patron on each visit to the bar.

6) ALTERCATIONS, FIGHTS, CONFRONTATIONS DURING NORMAL OPERATIONS (LEAGUE PLAY AND RENTALS)

- a) In case a situation arises either on the field, in the stands, or in the facility
 - i) Identify problems early.
 - ii) Take control of situation by defusing the issue and separating the patrons
 - iii) Allow the referee to handle all on field situations, but provide assistance if needed.
- b) If a situation appears dangerous or out of control:
 - Notify security personnel or police immediately.

Local police number: 911

- ii) Remain calm and be firm while attempting to diffuse the situation.
- iii) Inform all parties that security and police have been notified



- iv) Use common sense.
- v) Protect yourself and avoid all unnecessary risks
- vi) STAY OUT OF ALL FIGHTS
- c) Fill out the incident report and be sure to document what happened and what measures were taken, the nature of the incident, and where it took place.

7) IN CASE OF FIRE

- a) If you think you can safely extinguish a SMALL, CONTAINED FIRE, do so with an extinguisher, making sure to leave an escape route open in case you are unsuccessful.
- b) Extinguishers are located: at all exits, near office and in concession stand
- c) If you manage to extinguish the fire, call the fire department at 911 to report it and then fill out the incident report.
- d) If the fire is unmanageable:
- e) Leave the area immediately, closing doors behind you if possible, and pull a fire alarm. If there is no alarm system, call out an alarm, i.e., "FIRE!"
- f) Phone 911.
- g) Evacuate the building as soon as the alarm sounds, checking for and assisting handicapped individuals.
- h) Warn others upon exiting.
- i) Close all windows and doors (if possible).
- j) Once outside, move far away from the building.
- k) Do not re-enter the building until instructed to do so by emergency responders.

8) TORNADOES & EARTHQUAKES

- a) If you are inside:
- b) Move away from all windows onto the lower floor towards the bathrooms and office area.
- c) Avoid the open area of the basketball courts or grass arena.
- d) Take cover under heavy furniture.
- e) Protect your head from falling objects (bricks, beams, ceiling tiles, plaster, lights, etc.) with your arms.

f) If you are outside:

- g) Lie flat in the nearest depression such as a ditch or ravine. If there is time, move away from the path of the tornado at a right angle.
- h) Move away from trees, signs, buildings, electric poles, and wires.
- i) Protect your head from falling objects with your arms.

j) After the disaster:

- k) Remain calm and be patient.
- I) Follow instructions from emergency officials.
- m) Check for damage using a flashlight do not light a match or turn on electrical switches.
- n) If you smell a gas leak, make sure everyone leaves the building and turn off the main gas valve if you know how.



9) CIVIL DISPUTES OR DEMONSTRATIONS

- a) Avoid provoking or obstructing demonstrators if possible. Dial 911 if a disturbance does occur and is unmanageable.
- b) If the disturbance seems to threaten the occupants of the building, alert all persons in the vicinity.
- c) Lock all doors and windows.
- d) If evacuation is necessary, follow police instructions.

10) CRIMINAL OR VIOLENT BEHAVIOR

- a) If you or someone else is a victim of or are involved in any law violation such as assault, robbery, theft, or overt sexual behavior, please do not take any unnecessary risks.
- b) Notify the police immediately of the following:
 - i) Nature of the incident
 - ii) Location of the incident
 - iii) Description of the person or persons involved
 - iv) Description of the property involved
- c) Fill out the incident report and be sure to document what happened and what measures were taken, the nature of the incident, and where it took place.
- d) If you witness any suspicious or criminal activity, contact 911 immediately to report the situation.

11) EXPLOSION OR BOMB THREAT PROCEDURES

If there is any suspicious looking box, package, object, or container in or near the facility be aware that this may be a bomb or explosive. Do not handle or touch the object. Make sure everyone is at least 300 feet (including above and below) from the object. Move to a safe area and dial 911.

If you receive a bomb threat via telephone:

- a) If possible, have more than one person listen to the call. Record the call if possible. Otherwise, write down every word the caller says.
- b) Stay calm and collected, paying close attention to the caller. This could result in obtaining additional information, especially if the caller wishes to avoid injuries or deaths.
- Keep the caller on the line and attempt to get as much information as possible. Ask for the message to be repeated.
- d) If the caller does not indicate the location of the bomb and time of possible detonation, ask for this information.
- e) Inform the caller that the building is occupied and the detonation of the bomb could result in death or serious injury to many people.
- f) Pay particular attention to background noises, such as motors running, music playing, or other noises that may give a clue as to where the caller is.

- g) Listen closely to the voice (male or female), voice quality (calm or excited), accents, and speech impediments. Immediately after the caller hangs up, call the person designated by management to receive the information.
- h) Report the threat immediately to the police department, fire department, ATF, FBI, fire department, and other appropriate agencies.
- Stay available, as law enforcement will want to talk to the person who received the message first.

Be sure to ask the caller all of these questions and record his/her answers:

When will it explode?
Where is it right now?
Where did you leave it?
What does it look like?
What kind of bomb is it?
What will cause it to explode?
Did you place the bomb?
Why did you place the bomb?
Where are you calling from?
What is your address?
What is your name?

Record the following important information:

- Exact date and time you received the call
- Exact words of the caller
- Quality of the caller's voice and his/her manner of speaking
- Any Caller ID information available
- Your name and the phone number at which the call was received

Written bomb threats

- Save all materials, including any envelopes or containers. Once the message is recognized as a bomb threat, avoid further unnecessary handling.
- Make every possible effort to retain evidence, including fingerprints, handwriting, paper, and postal marks. These are essential for tracing the threat and identifying the writer.

In case of an explosion

- Take cover under sturdy furniture until someone is able to assist you, or leave the building if directed to do so by emergency responders.
- Stay away from windows.
- Do not light matches.
- Move well away from the site of the hazard to a safe location.
- Call 911 if no one else has done so.

12) TERRORISM

- · Remain calm and be patient.
- Follow instructions from emergency officials.
- Check for damage using a flashlight do not light a match or turn on electrical switches.

 If you smell a gas leak, make sure everyone leaves the building and turn off the main gas valve if you know how.

If local officials instruct you to SHELTER IN PLACE

- Make sure all doors and windows are locked.
- Turn off all fans and heating and air conditioning systems.
- If there is a fireplace, close the damper.
- Move to an interior, windowless room on a floor above ground level. Listen to a battery-operated radio until you are told to evacuate or that all is safe.
- In case of a chemical threat, make sure you are above ground level. Use duct tape to seal cracks around doors and air vents in the room.
- Follow instructions from emergency personnel and/or the radio.

13) EVACUATION OF THE BUILDING AND SURROUNDING PREMISES

- a) Stop all work.
- b) Do not panic or rush.
- c) Follow the emergency evacuation plan (copy attached).
- d) Use the closest exit.
- e) Do not reenter the building until emergency responders instruct you to do so.

14) EVACUATION PLAN

If there is an emergency where an evacuation of the building is required follow these steps:

- 1. From the lower level concession, arcade area, pro shop, bathrooms:
 - Exit to the North side of the building, out door and up ramp to parking area
 - b. If that is not available, continue to the rear of the building and out the back doors.

2. From the Turf Arenas:

- Exit the arena door and proceed right to the rear of the building and exit the back doors.
- b. If that is not available, follow the exit signs to the North side of building and out door to parking area.
- From the upper level Overlook Room, Golf Range and Golf Instruction Area:
 - a. Proceed to the front exit door.

b. If not available, exit through golf range area and out North side door to parking area

After evacuating the building, move as far from the building as possible while finding appropriate shelter until instructed by emergency personnel.



15) EMPLOYEE SIGNATURE

I have read and understand the Tyngsboro Sports Ce Procedures and Emergency Guide.	nter Facility Operating
Employee Name (print)	
- mproyee Marrie (print)	
Employee Name (signature)	Date

APPENDIX A

EVENT SECURITY/SAFETY PLAN

Event Name:		
Event Date:Expected Attendance:		
Open to Public?: Alcohol Served?:	Ticketed Event?: Food Served?:	· · · · · · · · · · · · · · · · · · ·
Public Safety Requirements:		
Private Security Requirements:	4-14	
oard of Health Requirements:		
	,	
uilding Inspector Requirements:		P**
		

Public Safety Officer Name, Signature, Date:	
Private Security Officer Name, Signature, Date:	•
Fire/EMT Officer Name & Signature, Date:	
Board of Health Name, Signature, Date:	
Building Department Name, Signature, Date:	



APPENDIX B

FIRST REPORT OF INCIDENT

American Specialty Insurance Services, Inc.

ATTN: Claims Department 142 N. Main Street, P.O. Box 459 Roanoke, IN 46783-0309

Roanoke, IN 46783-0309 Phone: (800) 566-7941 Fax: (260) 673-1291

FIR	ST REPORT OF A	CCIDENT		
DATE OF INCIDENT TIME OF IN Name of Team/Club/Organization: Address: Telephone Number:	DOES THE INJURED PERSON HAVE OTHER MEDICAL INSURANCE?			
INJURED PERSON: ☐ Athlete ☐ Spectator ☐ Employee ☐ Volunteer ☐	Official □ Coach	DID THIS TAKE PL	ACE DURING:	□Club activity
Was injured person a member of ☐ ☐ Yes ☐ No	organization?	☐ Pre-activity [☐ Sanctioned event ☐ During activity	
INJURED PERSON INFORMATION		☐ After activity ☐	While traveling	
Last Name First	Middle	Telephone Number)	mer v mar
Address		Social Security Numb		□ Single □ Married
City State	Zip	Employer and Addres		
	le 🗆 Female	~ mprojer and reduce		
ARDIAN/PARENT (IF INJURED PERSON	N IS A MINOR)		<u> </u>	
Last Name First	Middle	Telephone Number ()	
Address	City	State		Zip
SUSPECTED PRE-EXISTING CONDITION	☐ Yes ☐ No			
INCIDENT LOCATION Competition area Parking lot Concession area Concession are	INCID Assault/Sexual Assault/Non-Sexual Fall (different level) Fall (same level) Caught in, on, between Animal/insect bite/sting Collision (with object) Collision (participant/sp Collision (spectator/spe Struck by falling/flying Auto/Property (also com	□ Slip, bodily reaction □ Slip/Fall □ Eligibility □ Aquatic □ Trip/Fall g □ Drug Testing □ Overexertion articipant) pectator) ctator) object	☐ Antacid	□ Oxygen □ Rest □ Splinted □ Wrapped □ Exam
PRIMARY INJURY Aflergy Dislocation Nausea Amputation Electrical Shock Stroke Abrasion Foreign Body Burn Laceration Fracture Death Heat Exhaustion Pain Hypertension Cold Injury Seizures Concussion Strain/Sprain Tooth/Mouth	☐ Knee (L/R) ☐ An ☐ Internal ☐ Hip ☐ Shoulder (L/R) ☐ Foc ☐ Elbow (L/R) ☐ Han	rso 🛘 Arm (L/R) ck 🗘 Tooth	DISI Released to parent Refusal of care Refer to doctor Refer to hospital or Medical attention EMS transport Patient requested EI Released to persona	MS transport
Describe how the incident occurred:				
)	TNESS INFORMATION			
NAME	ADDRI	ESS	TELEPHO	ONE NUMBER
2.			()	
5-	18		()	ĺ

Tyngsboro Sports Center – Facility Operating Procedures and Emergency Guide FIRST REPORT OF AUTO ACCIDENT/PROPERTY DAMAGE

If the injury or property damage was the result of an auto acciden	nt, please complete this section.
Pheeon driving the auto:	☐ Injured ☐ Not-injured
MAKE/MODEL WEAR OF ALMO	
LIST NAMES AND ADDRESSES OF ALL PASSENGERS IN	
Name:	Name:
Address:	
☐ Injured ☐ Not-injured	☐ Injured ☐ Not-injured
NOTE: PLEASE USE THE REVERSE SIDE OF THIS FORM INJURY INFORMATION FOR ALL INJURED PERSONS SHOOR SEPARATE SHEETS OF PAPER, IF NECESSARY.	TO SUPPLY INJURY INFORMATION. A LIST OF ALL PASSENGERS AND DULD BE SUPPLIED; PLEASE USE ADDITIONAL INCIDENT REPORT FORMS
PURPOSE OF THE TRIP:	
	THE ACCIDENT:
If the accident involved a collision with another automobile, pl	
PERSON DRIVING OTHER AUTO:	□ Injured □ Not-injured
OWNER OF OTHER AUTO:	
MAKE/MODEL/YEAR OF OTHER AUTO:	
LIST NAMES AND ADDRESSES OF ALL PASSENGERS IN O	
Name:	
Address:	Name:Address:
□Injured □ Not-injured	☐ Injured ☐ Not-injured
(Attach separate sheet of paper, if necessary.)	2 mjarod 13 Not-injured
	ROPERTY DAMAGE THAN AUTO ACCIDENTS)
If property was damaged, please supply a description of the property	·
Description of property:	(and
Description of damage:	
Owner's Name and Address:	
Owner's Telephone Number: ()	

Draft December 2, 2010

ksz

December 2, 2010

∴X#: TO: 178-649-2320 Michael Gr

FROM:

Charles J. Zaroulis, Esq.

Mr. Michael Gilleberto. Town Administrator

Town Hall

25 Bryants Lane

Tyngsborough, MA 01879

DATE:

IT CYT

File:

Tyngsborough

Re:

Westford Road Development

Dear Michael:

This letter is in response to your facsimile of December 2, 2010, enclosing a letter from Westford Road Development, LLC, dated November 4, 2010, Release of Development Agreement and a Development Agreement, requesting my recommendations.

No additional facts or issues have been presented top me. If there are any, you should so advise.

The comments in my July 21, 2010, are still valid.

As to my paragraph number two, I note that the three suggested changes were made.

As to paragraph number nine, however, I recommend it specifically run "in perpetuity."

As to the revised draft dated November 4, 2010, I make the following comments:

Section 1. a and b, I have no information regarding fees and make no comment or recommendation.

As to the remaining terms of the Agreement, please note that I was not involved in the original agreement or the recent discussion and negotiations, nor have I been advised as to any facts or issues, and consequently, I do not have any specific recommendations as to substance.

If there are any concerns or issues, kindly provide me with these concerns, issues and the facts concerning these matters.

Please call to discuss, or if you have any questions.

Sincerely yours,

Charles J. Zaroulis

Town Counsel

CJZ:ksz

Tyngs/Westford Road Development Letter to MG

Westford Road Development, LLC

315 Middlesex Road, Unit 3 Tyngsboro, Massachusetts 01879

November 4, 2010

Board of Selectmen Town Offices 25 Bryants Lane Tyngsborough, MA 01879

Dear Members of the Board:

We are writing to update you on the status of the proposed development of the land currently owned by Sycamore Networks Real Estate, LLC ("Sycamore") located in the triangle formed by Westford and Middlesex Roads (the "Property").

As may you know, we recently received all of the permits and approvals necessary to begin construction of the proposed solar facility on a portion of the Property. We are now working with a partner in connection with the plan to finance and construct a 4-6MW solar facility in 2011. In addition, we are continuing to pursue all of the state and Town permits and approvals that we require in order to make the balance of our proposed development a reality.

Earlier this year, we sent you a letter regarding the development agreement that the Town, by its Board of Selectmen and Planning Board, and the Trustees of Vesper Properties I Trust ("Vesper Properties") entered into on November 31, 1987 in connection with the then proposed seventeen lot development plan for the Property. We asked that you consider the release of this Development Agreement as the development plan proposed in 1987 has been abandoned for over 20 years and thus, the corresponding agreement is obsolete and a considerable hindrance to improving the Property. We believe that as long as the 1987 development agreement remains on record at the Registry of Deeds, it will continue to unnecessarily encumber the Property, thereby limiting any potential development thereof. This in turn will prevent the Town from recognizing the tax and other benefits that would be associated with any improvements to the Property. Furthermore, the 1987 development agreement needlessly restricts any potential developer's ability to secure financing in connection with the Property, and will limit the lease and resale value of the same.

We understand that in a letter dated July 21, 2010, Attorney Charles Zaroulis gave his opinion that there was no prohibition "against the Board of Selectmen's and the Planning Board's signing the Release [of the 1987 development agreement] if such Boards determine that it is in the public interest to do so." For the reasons stated above, namely the undue burden that the 1987 development agreement represents to any future development of the Property, we believe that it would certainly be in the best interest of the Town and its citizens to release the 1987 development agreement. Accordingly, we

hope that this Board will act expediently to execute and deliver the Release enclosed herewith.

Also, as you know we have agreed to enter into a new development agreement and sent a proposed draft to you earlier this year for your consideration. Enclosed is a revised draft which reflects changes to the final development plan and also incorporates the edits and comments set forth in Mr. Zaroulis's July letter.

We believe the revised draft is a viable alternative to the 1987 development agreement that would not only facilitate the development of the proposed project – and thus ensure that the Town receives the tax and other benefits thereof – but would provide additional impact fees to offset the costs of increased use of Town services.

Of course, we would be happy to discuss this matter with the Board at your convenience. We look forward to continuing to work with you in conjunction with this project.

Respectfully:

WESTFØRD ROAD DEVELOPMENT, LLC

Walter K. Eriksen, Jr.

Enclosures

cc: Town of Tyngsborough Planning Board

Michael P. Gilleberto, Town Administrator

RELEASE OF DEVELOPMENT AGREEMENT

This Release of Development Agreement is made as of this _____ day of _____, 2010, by the Town of Tyngsborough, acting by and through its Board of Selectmen (the "Selectmen") and Planning Board (the "Planning Board").

WHEREAS, the Town of Tyngsborough, Massachusetts, by its Selectmen and Planning Board, and Paul E. Guaraidi and Francis D. Burke, as Trustees of Vesper Properties I Trust ("Vesper Properties") entered into that certain Development Agreement dated November 31, 1987 and recorded with the Middlesex North District Registry of Deeds at Book 4499, Page 264 (the "Development Agreement") in connection with the proposed development of a certain parcel of land in Tyngsborough, Massachusetts consisting of approximately 130 acres situated on the easterly side of Westford Road and the southerly side of Middlesex Road (the "Land");

WHEREAS, the proposed development, as contemplated in the Development Agreement, was never fully completed and on October 30, 2000, Vesper Properties conveyed the unimproved portion of the Land, consisting of approximately 102 acres, more or less, to Sycamore Networks Real Estate, LLC ("Sycamore") by a deed recorded with said Registry of Deeds at Book 11142, Page 333 (the "Sycamore Parcel").

WHEREAS, as a result of the abandonment of the proposed development, as contemplated in the Development Agreement, and the subsequent conveyance of the Sycamore Parcel, the Selectmen and the Planning Board believe it is in the best interest



of the Town of Tyngsborough that the Sycamore Parcel be released from the terms, conditions and provisions of the Development Agreement.

NOW THEREFORE, the undersigned, being a majority of the Selectmen and the Planning Board, hereby release the Sycamore Parcel from all of the terms, conditions and provisions of said Development Agreement, effective immediately.

Executed as a sealed instrument as of the date first written above.

BOARD OF SELECTMEN OF THE TOWN OF TYNGSBOROUGH	PLANNING BOARD OF THE TOWN OF TYNGSBOROUGH
· · · · · · · · · · · · · · · · · · ·	
	
A Majority Thereof	A Majority Thereof
COMMONWEALTH O	F MASSACHUSETTS
County of, ss.	, 2010
Before me today the undersigned,members of the Town of Tyngsborough E personally known to me or otherwise proved to identification, which was name is signed on the preceding document, at voluntarily for its stated purpose on behalf Selectmen.	Board of Selectmen named above who is to me through other satisfactory evidence of to be one of the persons whose ad acknowledged to me that he/she signed it
	Notary Public
	My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

County of, ss.	, 2010
Before me today the undersigned, members of the Town of Tyngsborough Planning Boar known to me or otherwise proved to me through identification, which was name is signed on the preceding document, and acknow voluntarily for its stated purpose on behalf of the T Board.	other satisfactory evidence of to be one of the persons whose
	ary Public Commission Expires:

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is made as of this ____ day of _____, 2010, by and between the Town of Tyngsborough (the "Town"), acting by and through its Board of Selectmen (the "Selectmen"), and Westford Road Development, LLC (the "Developer").

RECITALS

WHEREAS, the Developer has entered into an agreement with Sycamore Networks Real Estate, LLC ("Sycamore") to acquire a certain parcel of land in Tyngsborough, Massachusetts, consisting of approximately 102 acres, more or less, situated easterly of Westford Road and southerly of Middlesex Road, said parcel being more particularly described in a deed recorded with the Middlesex North District Registry of Deeds at Book 11142, Page 333 (the "Parcel");

WHEREAS, if, as and when the Developer consummates the transaction to purchase the Parcel from Sycamore, the Developer proposes, subject to being able to obtain all necessary permits and approvals, to construct on the Parcel a modified life-style facility known as Tyngsborough Commons, consisting of office and/or retail building space as well as two-bedroom condominium units ("Tyngsborough Commons");

WHEREAS, if, as and when the Developer consummates the transaction to purchase the Parcel from Sycamore, the Developer proposes, subject to being able to obtain all necessary permits and approvals, to construct on the Parcel one or more industrial office buildings known as Tyngsborough Technology Park ("Tyngsborough Technology Park") (Collectively, Tyngsborough Commons and Tyngsborough Technology Park shall be referred to herein as the "Proposed Development");

WHEREAS, the Proposed Development is anticipated to significantly increase and further diversify the Town's tax base, as well as provide employment and other substantial benefits to the Town;

WHEREAS, the Developer and the Town mutually desire and have been cooperating to expedite the Proposed Development of the Parcel in order to recognize the anticipated benefits that the Proposed Development will afford the Town;

WHEREAS, in order to alleviate any burden on Town services associated with the Proposed Development, the Developer has agreed, subject to the terms and conditions set forth herein, to pay to the Town certain development fees;

WHEREAS, the Town intends to accept said development fees and apply the same to the costs and expenses resulting, directly and indirectly, from the increased burden upon Town services (including, but not limited to, the upkeep and operation of Town services servicing the Proposed Development and the upkeep and operation of Town recreational facilities to be located at the Proposed Development);



NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Town and the Developer hereby agree as follows:

- 1. The Developer shall, upon the terms and conditions set forth in this Agreement, pay to the Town a fee in connection with the completion of each component of the Proposed Development as follows:
 - a. The Developer shall pay to the Town a one-time fee equal to twenty-five cents (\$0.25) per square foot of office and/or retail and/or industrial building space constructed as part of the Proposed Development (the "Business Development Fee"). In no event shall the total amount of all Business Development Fees exceed the sum calculated as the total amount of square feet of all building space used solely for office and/or retail and/or industrial purposes constructed at the Parcel multiplied by twenty-five cents (\$0.25).
 - b. The Developer shall also pay to the Town a one-time fee equal to three hundred dollars (\$300.00) per residential condominium unit constructed as part of the Proposed Development (the "Residential Development Fee"). In no event shall the total amount of all Residential Development Fees exceed the sum calculated as the amount of residential condominium units constructed at the Parcel multiplied by three hundred dollars (\$300.00).
- 2. The Business Development Fee associated with each square foot of office and/or retail and/or industrial building space shall be due and payable by the Developer to the Town within thirty (30) business days upon the lease or sale of each such square foot of office and/or retail and/or industrial building space to a third-party lessee or purchaser.
- 3. The Residential Development Fee associated with each residential condominium unit shall be due and payable by the Developer to the Town within thirty (30) business days after the conveyance of each such residential condominium unit to a third-party purchaser.
- 4. All payments due and payable under the terms of this Agreement shall be made to the Town and delivered to the office of the Town Treasurer in lawful money of the United States of America. Each payment shall be accompanied by a certificate from the Developer stating:
 - a. The amount paid therewith;
 - b. The method of calculation of the payment; and
 - c. The location and number of the office, retail, or industrial space or residential condominium unit for which the payment is being made.
- 5. For each payment made by the Developer to the Town, the Town Treasurer shall issue, within thirty (30) business days, a receipt indicating that the payment set forth

- in the certificate has been made. Such receipt shall be conclusive and final evidence that such payment was timely made in accordance with the terms of this Agreement, and that no further payment shall be due in connection with said office, retail, or industrial space or residential condominium unit.
- 6. The Developer's obligation to pay any and all fees under this Agreement is contingent upon (i) the Developer consummating its agreement with Sycamore and taking title to the Parcel, and (ii) the Developer obtaining the necessary permits and approvals to construct the Proposed Development. In no event shall the Developer be obligated to pay any Business Development Fees, Residential Development Fees, or any other fees to the Town in the event that the Developer does not take title to the Parcel or is unable to obtain the necessary permits and approvals to construct the Proposed Development.
- 7. In no event shall this Agreement, or any notice or memorandum hereof, be recorded with any registry of deeds unless and until such time as (i) the Developer takes title to the Parcel, and (ii) the Developer and the Town agree, in a mutually executed written instrument, that it is in the best interests of the parties hereto to record this Agreement or a notice or memorandum hereof.
- 8. Any written notice, request or demand required or permitted by this Agreement shall, until either party shall notify the other in writing of a different address, be properly given if sent by certified or registered class mail, postage prepaid, and addressed as follows:

If to the Developer: Westford Road Development, LLC

c/o Walter K. Eriksen, Jr. 315 Middlesex Road, Unit 3 Tyngsboro, MA 01879 FAX (978) 649-3540

w/ a copy to:

Kevin Eriksen, Esq.

Deschenes & Farrell, P.C. One Billerica Road

Chelmsford, MA 01824 FAX (978) 250-0057

If to the Town:

Town of Tyngsborough

Board of Selectmen and Town Administrator

Town Offices
25 Bryants Lane
Tyngshoro, MA 0

Tyngsboro, MA 01879 FAX (978) 649-2320

9. This Agreement shall run with the land and be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.



- 10. Notwithstanding any provision of this Agreement to the contrary, it is expressly understood that this Agreement shall be non-recourse and that the extent of any and all liability on the part of the Developer hereunder is expressly limited to its interest in the Proposed Development. Furthermore, the Town expressly agrees (i) to look solely to such property and improvements making up the Proposed Development in satisfaction of the obligations of the Developer hereunder, and (ii) that no agent, employee, officer, manager or member of the Developer shall have any personal liability for any of the obligations of the Developer under this Agreement.
- 11. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts.
- 12. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all collectively but one and the same instrument. This Agreement may only be modified or amended by a written instrument executed by all parties hereto.
- 13. This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof.

[Signatures Appear on the Following Page]



Executed as a sealed instrument as of the date first written above.

BOARD OF SELECTMEN OF THE TOWN OF TYNGSBOROUGH	WESTFORD ROAD DEVELOPMENT, LLC
	Walter K. Eriksen, Jr., Manager
	James Patierno, Manager
A Majority Thereof	TH OF MASSACHUSETTS
County of, ss.	, 2010
personally known to me or otherwise pridentification, which was name is signed on the preceding docum	ned,, one of the bugh Board of Selectmen named above who is roved to me through other satisfactory evidence of, to be one of the persons whose tent, and acknowledged to me that he/she signed it behalf of the Town of Tyngsborough Board of
	Notary Public My Commission Expires:



COMMONWEALTH OF MASSACHUSETTS

County of, ss.	
Westford Road Development, LLC who is per to me through other satisfactory evid	
preceding document, and acknowledged to me purpose on behalf of Westford Road Deve liability company.	
	Notary Public
	My Commission Evnires

Tax Collectors comments are as follows:

While Westford Road Development owes no delinquent taxes, several other companies with Mr. Eriksen as a principal does.

He has made recent payments (substantial amounts) and informed me he will be in with \$20,000 next week if the closing goes through.

At this time I have no legal grounds or objections to this project.

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	TYNGS OWN C	D			

To:

All Departments, Boards, and Committees
Board of Selectmen

22/24/25
Request for Comment

From:

Date:

Re:

	TYPE OF LICENSE: _	Vegre (Aspertus)	wit Squissent
-	APPLICANT(S) NAME	: Drestand Rd	Dove lop ment
	OWNER(S) NAME:	1	· ·
	NAME OF BUSINESS	:	· · · · · · · · · · · · · · · · · · ·
	BUSINESS ADDRESS	: 315 Meddler	K Pel
Licer appli	ise/Permit. The Board	en has received an applicate requests that your Departments on it below and	rtment review the
indic	If your Agency <u>Must</u> to ate action.	ake action prior to issuar	ice of this license please so
Prepa Signa Depa Signa	rtment Head: Court for the second fo	Resident (Print)	Date: <u>(2</u> / <u>(5</u> / <u>/</u> 2
Cc:	ACOAssessorsZBAHealthBldg. CommCollector	Conservation DPW Historical Planning Bd Planner Sewer Comm.	TFD TPD Town Clerk Other ()

To:

To: From: Date: Re:	All Departm Board of Se /// /_// Request for	10	ittees
TYI API	PE OF LICENSI PLICANT(S) NAI	E: Vegen Bopertien ME: Wart Ford To	Trust agreement
	NER(S) NAME:		a servery see
NAI	ME OF BUSINE	SS:	
BUS	SINESS ADDRE	SS: 315 Mille	el Al
application separate s Please retu	Board of Selectermit. The Board make any heet. urn by: 10 / 20 ur Agency Mus	•	artment review the
mulcale ac	cuon.	•	
COMMENT	rs: <u>The Plann</u>	ing Board has no commen.	<u>/S</u>
Prepared by Signature:	y: <u>Jamela Bei</u> <u>Pamula Q.</u>	Man (Print)	Date: 10 / 22 / 10
Departmen Signature:	t Head: Steve	n A. Nocco (Print)	Date: 1/ 18 2010
ZB He Blo	sessors	Conservation DPW Historical Planning Bd Planner Sewer Comm.	TFD TPD Town Clerk Other ()
			RECEIVED Tyngsborough Planning Board 10 - 15 - 10



To:	<u></u>	ts, Boards, and Committ	ees
From:	Board of Selec		
Date:	10 114 110		
Re:	Request for Co	mment	
TYPI	E OF LICENSE:	Vagar Agarties	Teest Consument
APPI	JCANT(S) NAME	: Was ford Rd	Development
OWN	IER(S) NAME: _		
	E OF BUSINESS		<u> </u>
BUS	INESS ADDRES	S: 315 Malele	red Pl
License/Pe application separate sh	Board of Selectm rmit. The Board and make any o	en has received an application for the second secon	ertment review the
If you indicate ac COMMENT	tion. $\Lambda/$	take action prior to issua	nce of this license please so
Prepared by Signature:	y: 7.54	VOS (Print)	Date: 10 / 1/9 / 10
Departmen Signature:	t Head:	(Model (Print)	Date: 10 / 17 / 18
Cc: AC	<u>'</u>	Conservation	≻TFD
	sessors	DPW	TPD
As ZE		Historical	Town Clerk
_	ealth	Planning Bd.	Other ()
	dg. Comm.	Planner	
	llector	Sewer Comm.	
\	TIOULUI	001101 0011111111	

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From: Date:	Board of Sel		ittees
Re:	### / ## / ## / ## / ## / ## / ## / ##		
TYF		: Keeper Printer To	ust agreement
APF	PLICANT(S) NAN	ME: Wastlow RD	Delspmant
OW	NER(S) NAME:		
NAN	ME OF BUSINE	SS:	
BUS	SINESS ADDRE	ss: 315 Muldles	et Pl
Dicense/Pe application reparate sl	Board of Select ermit. The Boar and make any	men has received an appl rd requests that your Dep comments on it below ar	artment review the
If you indicate ac	ur Agency <u>Must</u> tion.	take action prior to issua	ance of this license please so
COMMENT	S: Hibituray	BEPT. HAS NO C	bmmen7.
Prepared by Signature:	y: James / Janoo R	Lustra (Print)	Date: 10 / 25 / 10
Departmen Signature:	t Head: <u>Jamas</u> Jam <i>z</i> o R	Lustino (Print)	Date: 10 / 25/ 10
c: _AC		Conservation	_ TFD
Ass	sessors A	<u>↓</u> DPW Historical	TPD
	alth	Planning Bd.	Town Clerk Other ()
Bld	lg. Comm.	Planner	
Col	llector	Sewer Comm.	

To Fr Da Re	נ נ

To: From: Date: Re:	All Departm Board of Sei Letter 12 Request for	<u> </u>	uittees	
	PE OF LICENSE	: Karper Proporties ME: Wast Long Test		
	NER(S) NAME:		Lovelypmant	
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BUS	SINESS ADDRE	SS: 3/5 Mila	lose Pel	
application parate sl	Board of Select ermit. The Boar and make any neet. In by: <u>IO</u> / <u>A</u> ar Agency <u>Must</u> tion.		m = m.t	0
Prepared by Signature:	William F.	Mullign (Print)	Date/0 /2/ / 10	
Department Signature: 4	Head: W. Max	Mully (Print)	Date: 10 /21 /10	
ZBA Hea Bldg	essors	Conservation DPW Historical Planning Bd Planner Sewer Comm.	TFDTPDTown ClerkOther ()	ı

40 Church Street, Suite 500, Lowell, Massachusetts 01852-2686 Telephone (978) 458-4583 Facsimile (978) 937-0950

VIA ELECTRONIC MAIL & USPS

July 21, 2010

Mr. Michael P. Gilleberto Town Administrator Town Hall 25 Bryants Lane Tyngsborough, MA 01879

File: Tyngsborough

Re: Westford Road Development, LLC

Sycamore Networks Real Estate

Release of 1987 Development Agreement

Dear Michael:

This letter is in response to your E-mail of June 17, 2010, enclosing a letter dated September 9, 2010, from Westford Road Development, LLC, Release of Development Agreement 2010, and Development Agreement 2010. No facts or issues have been presented to me.

I have reviewed the prior Agreement dated November 31 (sic) 1987, and certain records at the Registry of Deeds concerning the subdivision definitive plan approval and covenants, as well as the Board of Selectmen and Town Meeting minutes.

I make the following comments:

1. Release of Development Agreement:

Based on the information provided to me, I do not find any prohibition against the Board of Selectmen's and the Planning Board's signing the Release if such Boards determine that it is in the public interest to do so. However, see my comments below regarding impact fees.

2. Development Agreement:

Paragraph 9 should provide that the Agreement run with the land.

CHARLES J. ZAROULIS LAW OFFICES

Mr. Michael P. Gilleberto, Town Administrator Re: Westford Road Development, LLC Sycamore Networks Real Estate Release of 1987 Development Agreement July 21, 2010

Page 2 of 3

Paragraph 8: Town of Tyngsboro should be spelled, "Tyngsborough." Add the fax number.

Also, state that notice shall be provided to the Town Administrator.

My review is as to form only and not as to substance where no facts or issues have been presented to me.

I note that the proposed agreement, unlike the previous agreement, does not set forth specifically how the monies are to be applied. I assume the intent, therefore, is for the monies to be paid into the general fund.

I bring to your attention the following regarding the legality of impact fees:

The Massachusetts courts address whether the proposed fee constitutes an impermissible tax. The leading case on point is *Emerson College v. City of Boston*. The Supreme Judicial Court reviewed Boston's attempt to impose a charge against certain large buildings that required "augmented" fire services. Where college was tax-exempt, it claimed that the charge constituted an unconstitutional tax, rather than a fee. The court announced a three-pronged test to distinguish a fee from a tax:

- 1. Fees are charged in exchange for a particular government service that benefits the party paying the fee in a manner not shared by other members of society.
- 2. Fees are paid by choice, in that the party paying the fee has the option of not utilizing the government service and thereby avoiding the charge.
- 3. Fees are collected not to raise revenues but to compensate the government entity providing the services for its expenses.

Since the benefits of the charge were not limited to the college but attached to the general public, the court held that this was a tax in violation of the state constitution. The court noted that the fact that "revenue obtained from a particular charge is not used exclusively to meet expenses incurred in providing the service but is destined instead for a broader

CHARLES J. ZAROULIS LAW OFFICES

Mr. Michael P. Gilleberto, Town Administrator
Re: Westford Road Development, LLC
Sycamore Networks Real Estate
Release of 1987 Development Agreement
July 21, 2010

Page 3 of 3

range of services or the general fund, 'while not decisive, is of weight in indicating that the charge is a tax.' "

Please call me if you have any questions and to discuss.

Sincerely yours,

Charles J. Zaroulis Town Counsel

CJZ/jrz

Cc: Board of Selectmen



Westford Road Development, LLC

315 Middlesex Road, Unit 3 Tyngsboro, Massachusetts 01879

June 9, 2010

Board of Selectmen Town Offices 25 Bryants Lane Tyngsborough, MA 01879

Dear Members of the Board:

We are writing to update you on the status of the proposed development of the land currently owned by Sycamore Networks Real Estate, LLC ("Sycamore") located in the triangle formed by Westford and Middlesex Roads (the "Property").

As you know, we have been expeditiously pursuing all of the state and Town permits and approvals that we require in order to make this proposed development a reality, and we are pleased that the proposal continues to be so well received by the Town's various boards, committee and residents.

We are particularly grateful for this Board's willingness to collaborate with us to ensure that this project is realized in such a way so as to provide substantial benefits to the Town of Tyngsborough.

As you may know, the Town, by its Board of Selectmen and Planning Board, and the Trustees of Vesper Properties I Trust ("Vesper Properties") entered into a development agreement on November 31, 1987 in connection with the then proposed seventeen lot development plan for the Property. A copy of the 1987 development agreement is enclosed. This proposed development plan was never fully completed (only two buildings were constructed on Potash Hill Road) and on October 30, 2000, Vesper Properties conveyed the unimproved portion of the Property to Sycamore.

The development plan proposed in 1987 has been abandoned for over 20 years and thus, the corresponding development agreement is obsolete and a considerable hindrance to improving the Property. As long as the 1987 development agreement remains on record at the Registry of Deeds, it will continue to unnecessarily encumber the Property, thereby limiting any potential development thereof. This in turn will prevent the Town from recognizing the tax and other benefits that would be associated with any improvements to the Property. Furthermore, the 1987 development agreement needlessly restricts any potential developer's ability to secure financing in connection with the Property, and will limit the lease and resale value of the same. Finally, if the 1987 development agreement is not released, we do not anticipate that it will be possible to move forward with the proposed project.



For all of these reasons, it is critical that the Property be released from the terms, conditions and provisions of the 1987 development agreement. For your convenience, we have enclosed a proposed release of the 1987 development agreement for your consideration.

Though we believe the 1987 development agreement is a significant obstacle to the development of the Property, we are offering a more appropriate development agreement to alleviate any burden on Town services associated with the proposed project. Accordingly, we would agree to execute a new development agreement and have enclosed a proposed draft for your consideration. We believe the attached draft is a viable alternative to the 1987 development agreement that would not only facilitate the development of the proposed project—and thus ensure that the Town receives the tax and other benefits thereof—but would provide additional impact fees to offset the costs of increased services.

Of course, we would be happy to discuss this matter with the Board at your convenience. We look forward to continuing to work with you in conjunction with this project.

Respectfully:

WESTFORD ROAD DEVELOPMENT, LLC

Walter K. Eriksen, Jr.

Enclosures

cc: Town of Tyngsborough Planning Board



Westford Road Development, LLC

315 Middlesex Road, Unit 3 Tyngsboro, Massachusetts 01879

June 9, 2010

Planning Board Town Offices 25 Bryants Lane Tyngsborough, MA 01879

Re: Westford Road Development Project

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Of course, we would be happy to discuss this matter with the Board at your convenience. We look forward to continuing to work with you in conjunction with this project.

Respectfully:

WESTFORD ROAD DEVELOPMENT, LLC

Walter K. Eriksen, Jr.

Enclosures

cc: Town of Tyngsborough Board of Selectmen

B O 1 4 9 9 P 2 1 A RSH-0457H-08/12/57

DEVELOPMENT AGREEMENT

This Development Agreement is entered into as of the 3157 day of November, 1987 between the Town of Tyngsborough, Massachusetts ("Town") and Paul E. Guaraldi and Francis D. Burke, as Trustees of Vesper Properties 1 Trust under Declaration of Trust dated January 8, 1986 and recorded with Middlesex North District Registry of Deeds in Book 1315, Page 65 (Vesper Properties).

WHEREAS. Vesper Properties has acquired a certain parcel of land in Tyngsborough. Middlesex County, Massachusetts consisting of approximately 130 acres situated easterly of Westford Road and southerly of Middlesex Road (the "Land");

WHEREAS. Vesper Properties intends to construct upon the Land an office/reseatch and development park consisting of buildings aggregating not more than 850,000 net rentable square feet in area (the "Fark").

WHEREAS, the Land was rezoned at the Special Town Meeting of September 10, 1985 from General Residence Zone and business to Industrial Zone in order to facilitate and encourage the construction of the Park.

MHEREAS, the Park is anticipated to significantly increase the Town's non-residential tax base and provide employment and other benefits to the Town;

WHEREAS, Vesper Properties and the Town mutually desire to expedite an orderly and coordinated development of the Land for the protection of the character of the Town and to enhance the attractiveness of the Park; and

WHEREAS, Vesper Properties and the Town have been cooperating and intend to continue to cooperate to arrive at a mutually desirable master plan for the Park;

WHEREAS. Vesper Properties and the Town intend to cooperate in coordinating and securing necessary permits and approvals from governmental agencies having jurisdiction;

WHEREAS, Vesper Properties recognizes that the construction and operation of the Park will utilize municipal services, thereby creating a burden in the areas of public safety and traffic and will impose other burdens upon the Town by the elimination of open space and land which could be utilized for recreation purposes;

WHEREAS, Vesper Properties desires to assist the Town as to the cost of the added municipal services and other burdens imposed by the Park;

NOW THEREFORE, for sufficient and valuable consideration received, the Town and Verper Properties hereby agree:

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- Upon the completion and occupancy (as defined below)
 of all or any part of any building within the Park,
 "Bevelopment Fee") based upon net rentable building
 floor area in the amounts and at the times and in the
 manner set forth below.
- The amount of Development Fee shall be \$1.25 per net rentable square foot of building floor area for each building 2; to which the occupancy permit has been issued.
- Development Fees for net rentable square feet in a building shall become due and payable within 30 days after the completion, issuance of a certificate of occupancy, and occupancy of such space. Failure to make such payments when due shall constitute a breach of this Development Agreement. For the purposes of this Development Agreement. For the purposes of this Development Agreement. "occupancy" shall mean actual occupancy for office, industrial, research and development, or other permitted business purposes by a tenant of Vesper Properties. The parties expressly intend that substantially equivalent development fees be imposed upon other significant non-residential developers along Westford Road between Middlesex Road and Dunstable Road.
- 4. Payments of Development Fees shall be made to the Town of Tyngsborough at the office of the Tyngsborough Town Treasurer in lawful money of the United States of America. Each payment shall be accompanied by a certificate of Vesper Properties stating the following with respect to such Development Fee payment: (i) the amount paid therewith: (ii) the method of calculation: (iii) the net rentable area in square feet of the building; and (iv) the location or number of the building. A receipt of the Tyngsborough Town Treasurer indicating that the payment set forth in such certificate has been made shall be conclusive evidence that such payment was timely made and no further cash payments in respect of Development Fees shall be payable thereafter with respect to the portion of the Park referred to in any such certificate.
- Payments in respect of Development Fees shall be applied by the Town of Tyngsborough as follows: Until occupancy of net rentable building floor area within the Park reaches the 400,000 square-foot level, payments in respect of Development Fees shall be allocated as follows:
 - 60% to the Impact Fee Fund (hereinafter defined),



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RSN-0457N-08/12/87

- 10% to the Town's Fund for Police and Fire purposes, and
- $\underline{101}$ to the Town's Conservation/Recreation Fund.

Total

After the earlier to occur of (i) the occupancy of net rentable floor area of buildings in the Park exceeding 400,000 square feet, or (ii) the completion of improvements required to viden Westford Road, payments in respect of Development Feet shall be allocated of improvements required to widen Westford Road, payments in respect of Development Fees shall be allocated of to the Impact Fee Fund. 34% to the Fund for Police and Fire purposes (up to a maximum of \$218,750) and 66% to the Conservation/Recreation Fund (up to a maximum of \$443,750). In the event that one of the foregoing two maximums is reached, all subsequent payments in respect of Development Fees shall be allocated to the other fund until the maximum for the second fund is reached, at which time all obligations to make payments in respect of Development Fees shall cease.

All payments hereunder to the Fund for Police and Fire Purposes shall be evenly split between the Fire Department and the Police Department.

- The "Impact Fee Fund" sha.1 mean a separate escrow fund to be held by a commercial escrowee to be mutually designated within sixty (60) days hereafter, or if the parties are unable to so agree. Town Counsel and used only for the purpose of improvements to Westford Road between Route 3 and Middlesex Road, provided that after the completion of the required Mestions Koad between Route 3 and Middlesex Road, provided that after the completion of the required improvements to said portion of Westford Road, said funds may, with a written consent of Vesper Properties, be reallocated (subject to the maximums set forth above) to the Conservation/Recreation Fund and the Fund for Police and Fire Dutdoses. No such set forth above) to the Conservation/Recreation rund and the Fund for Police and Fire purposes. No such reallocation of the Impact Fee Fund shall increase the maximum amounts for the Fund for Police and Fire purposes or the Conservation/Recreation Fund as set forth in paragraph 5 above.
- In addition to the foregoing payments in respect with Development Fees; Vesper Properties shall, simultaneously with obtaining a building permit for the construction of space which would increase the net rentable square footage in the Park above the 100.000-square-foot level, Vesper Properties shall cause the traffic signals and/or lights to be installed at each Park entrance, without cort or expense to the Town of Tyngsborough.
- All notices and other communications respecting this development agreement thail be in writing and thall be mailed, by registered or certified mail (postage and registration or certifics from charges prepaid) or

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RSH-0457N-08/12/87

delivered by hand, in the case of Vesper Properties to:
Vesper Properties Inc., Suite 3620, One Post Office Square,
Boston, MA 02109 and in the case of Tyngsborough to: Board
either party may by written notice to the other designate
another address which shall thereupon become the effective
address of such party for the purposes of this paragraph.
Any such notice shall be deemed given when so delivered by
United States postal services.

- The terms and provisions of this development agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties
- Notwithstanding anything to the contrary contained in this development agreement, it is expressly understood that this agreement shall be non-recourse and the extent of liability on the part of Vesper Properties is thereby expressly limited to its interest in the Park, the Town hereby expressly agreeing (i) to look solely to such property in satisfaction of the obligations of Vesper of Vesper Properties hereunder and (ii) no trustee or beneficiary of Vesper Properties shall have any personal liability for the obligation of Vesper Properties hereunder.
- This development agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

EXECUTED as a sealed instrument as of the date and year first above written.

TYNGSBOROUGH BOARD OF SELECTMEN

RSH-0457H-06/12/67

TYMGSBOROUGH PLANNING BOARD

lesser fraker 2/25/88

COMMORREALTH OF MASSACHUSETTS

· Ming 9

Then personally appeared the above-named Paul R. Guaraldi, to be his free act and deed, before me,

My Commission Expires:

Martin La Contra de 17, isse



RELEASE OF DEVELOPMENT AGREEMENT

This Release of Development Agreement is made as of this _____ day of _____, 2010, by the Town of Tyngsborough, acting by and through its Board of Selectmen (the "Selectmen") and Planning Board (the "Planning Board").

WHEREAS, the Town of Tyngsborough, Massachusetts, by its Selectmen and Planning Board, and Paul E. Guaraidi and Francis D. Burke, as Trustees of Vesper Properties I Trust ("Vesper Properties") entered into that certain Development Agreement dated November 31, 1987 and recorded with the Middlesex North District Registry of Deeds at Book 4499, Page 264 (the "Development Agreement") in connection with the proposed development of a certain parcel of land in Tyngsborough, Massachusetts consisting of approximately 130 acres situated on the easterly side of Westford Road and the southerly side of Middlesex Road (the "Land");

WHEREAS, the proposed development, as contemplated in the Development Agreement, was never fully completed and on October 30, 2000, Vesper Properties conveyed the unimproved portion of the Land, consisting of approximately 102 acres, more or less, to Sycamore Networks Real Estate, LLC ("Sycamore") by a deed recorded with said Registry of Deeds at Book 11142, Page 333 (the "Sycamore Parcel").

WHEREAS, as a result of the abandonment of the proposed development, as contemplated in the Development Agreement, and the subsequent conveyance of the Sycamore Parcel, the Selectmen and the Planning Board believe it is in the best interest



of the Town of Tyngsborough that the Sycamore Parcel be released from the terms, conditions and provisions of the Development Agreement.

NOW THEREFORE, the undersigned, being a majority of the Selectmen and the Planning Board, hereby release the Sycamore Parcel from all of the terms, conditions and provisions of said Development Agreement, effective immediately.

Executed as a sealed instrument as of the date first written above.

BOARD OF SELECTMEN OF THE TOWN OF TYNGSBOROUGH	PLANNING BOARD OF THE TOWN OF TYNGSBOROUGH
A Majority Thereof	A Majority Thereof
COMMONWEALTH O	F MASSACHUSETTS
County of, ss.	, 2010
Before me today the undersigned, members of the Town of Tyngsborough Expersonally known to me or otherwise proved to dentification, which was mame is signed on the preceding document, are roluntarily for its stated purpose on behalf selectmen.	to me through other satisfactory evidence of to be one of the persons whose ad acknowledged to me that he/she signed it
	Notary Public
	My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

County of	, ss.			, 2010
members of the known to me identification, v name is signed	me today the undersignation of Tyngsborous or otherwise proved which wason the preceding docur its stated purpose on	gh Planning Board to me through	other satisfactory to be one of the pe	evidence of ersons whose
			ry Public	
		My C	Commission Expires:	:

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is made as of this _____ day of ______, 2010, by and between the Town of Tyngsborough (the "Town"), acting by and through its Board of Selectmen (the "Selectmen"), and Westford Road Development, LLC (the "Developer").

RECITALS

WHEREAS, the Developer has entered into an agreement with Sycamore Networks Real Estate, LLC ("Sycamore") to acquire a certain parcel of land in Tyngsborough, Massachusetts, consisting of approximately 102 acres, more or less, situated easterly of Westford Road and southerly of Middlesex Road, said parcel being more particularly described in a deed recorded with the Middlesex North District Registry of Deeds at Book 11142, Page 333 (the "Parcel");

WHEREAS, if, as and when the Developer consummates the transaction to purchase the Parcel from Sycamore, the Developer proposes, subject to being able to obtain all necessary permits and approvals, to construct on the Parcel a modified life-style facility known as Tyngsborough Commons, consisting of approximately one hundred twenty-six thousand (126,000) square feet of office and/or retail building space, as well as approximately one hundred and seventy (170) two bedroom condominium units ("Tyngsborough Commons");

WHEREAS, if, as and when the Developer consummates the transaction to purchase the Parcel from Sycamore, the Developer proposes, subject to being able to obtain all necessary permits and approvals, to construct on the Parcel a two hundred thousand (200,000) square foot industrial office building known as Potash Hill Office Park ("Potash Hill Office Park") (Collectively, Tyngsborough Commons and Potash Hill Office Park shall be referred to herein as the "Proposed Development");

WHEREAS, the Proposed Development is anticipated to significantly increase and further diversify the Town's tax base, as well as provide employment and other substantial benefits to the Town;

WHEREAS, the Developer and the Town mutually desire and have been cooperating to expedite the Proposed Development of the Parcel in order to recognize the anticipated benefits that the Proposed Development will afford the Town;

WHEREAS, in order to alleviate any burden on Town services associated with the Proposed Development, the Developer has agreed, subject to the terms and conditions set forth herein, to pay to the Town certain development fees;

NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Town and the Developer hereby agree as follows:



- 1. The Developer shall, upon the terms and conditions set forth in this Agreement, pay to the Town a fee in connection with the completion of each component of the Proposed Development as follows:
 - a. The Developer shall pay to the Town a one-time fee equal to twenty-five cents (\$0.25) per square foot of office and/or retail and/or industrial building space constructed as part of the Proposed Development (the "Business Development Fee"). In no event shall the total amount of all Business Development Fees exceed the sum calculated as the total amount of square feet of all building space used solely for office and/or retail and/or industrial purposes constructed at the Parcel multiplied by twenty-five cents (\$0.25). (Based on the current specifications of the Proposed Development, there will be approximately three hundred twenty-six thousand (326,000) square feet of office and/or retail and/or industrial building space constructed on the Parcel, resulting in total Business Development Fees of \$81,500.00.)
 - b. The Developer shall also pay to the Town a one-time fee equal to three hundred dollars (\$300.00) per residential condominium unit constructed as part of the Proposed Development (the "Residential Development Fee"). In no event shall the total amount of all Residential Development Fees exceed the sum calculated as the amount of residential condominium units constructed at the Parcel multiplied by three hundred dollars (\$300.00). (Based on the current specifications of the Proposed Development, there will be one hundred seventy (170) residential condominium units constructed on the Parcel, resulting in total Residential Development Fees of \$51,000.)
- 2. The Business Development Fee associated with each square foot of office and/or retail and/or industrial building space shall be due and payable by the Developer to the Town within thirty (30) business days upon the lease or sale of each such square foot of office and/or retail and/or industrial building space to a third-party lessee or purchaser.
- 3. The Residential Development Fee associated with each residential condominium unit shall be due and payable by the Developer to the Town within thirty (30) business days after the conveyance of each such residential condominium unit to a third-party purchaser.
- 4. All payments due and payable under the terms of this Agreement shall be made to the Town and delivered to the office of the Town Treasurer in lawful money of the United States of America. Each payment shall be accompanied by a certificate from the Developer stating:
 - a. The amount paid therewith;
 - b. The method of calculation of the payment; and
 - c. The location and number of the office, retail, or industrial space or residential condominium unit for which the payment is being made.



- 5. For each payment made by the Developer to the Town, the Town Treasurer shall issue, within thirty (30) business days, a receipt indicating that the payment set forth in the certificate has been made. Such receipt shall be conclusive and final evidence that such payment was timely made in accordance with the terms of this Agreement, and that no further payment shall be due in connection with said office, retail, or industrial space or residential condominium unit.
- 6. The Developer's obligation to pay any and all fees under this Agreement is contingent upon (i) the Developer consummating its agreement with Sycamore and taking title to the Parcel, and (ii) the Developer obtaining the necessary permits and approvals to construct the Proposed Development. In no event shall the Developer be obligated to pay any Business Development Fees, Residential Development Fees, or any other fees to the Town in the event that the Developer does not take title to the Parcel or is unable to obtain the necessary permits and approvals to construct the Proposed Development.
- 7. In no event shall this Agreement, or any notice or memorandum hereof, be recorded with any registry of deeds unless and until such time as (i) the Developer takes title to the Parcel, and (ii) the Developer and the Town agree, in a mutually executed written instrument, that it is in the best interests of the parties hereto to record this Agreement or a notice or memorandum hereof.
- 8. Any written notice, request or demand required or permitted by this Agreement shall, until either party shall notify the other in writing of a different address, be properly given if sent by certified or registered class mail, postage prepaid, and addressed as follows:

If to the Developer:

Westford Road Development, LLC

c/o Walter K. Eriksen, Jr. 315 Middlesex Road, Unit 3 Tyngsboro, MA 01879 FAX (978) 649-3540

w/ a copy to:

Kevin Eriksen, Esq.

Deschenes & Farrell, P.C.

One Billerica Road Chelmsford, MA 01824 FAX (978) 250-0057

If to the Town:

Town of Tyngsboro, Board of Selectmen

Town Offices 25 Bryants Lane

Tyngsboro, MA 01879

FAX (978) _

w/ a copy to:



- This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.
- 10. Notwithstanding any provision of this Agreement to the contrary, it is expressly understood that this Agreement shall be non-recourse and that the extent of any and all liability on the part of the Developer hereunder is expressly limited to its interest in the Proposed Development. Furthermore, the Town expressly agrees (i) to look solely to such property and improvements making up the Proposed Development in satisfaction of the obligations of the Developer hereunder, and (ii) that no agent, employee, officer, manager or member of the Developer shall have any personal liability for any of the obligations of the Developer under this Agreement.
- 11. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts.
- 12. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all collectively but one and the same instrument. This Agreement may only be modified or amended by a written instrument executed by all parties hereto.
- 13. This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof.

Executed as a sealed instrument as of the date first written above.

BOARD OF SELECTMEN OF THE TOWN OF TYNGSBOROUGH	WESTFORD ROAD DEVELOPMENT, LLC
	Walter K. Eriksen, Jr., Manager
	James Patierno, Manager

A Majority Thereof



COMMONWEALTH OF MASSACHUSETTS

County of, ss.	, 2010
Before me today the undersigned,members of the Town of Tyngsborough I personally known to me or otherwise proved identification, which wasname is signed on the preceding document, ar voluntarily for its stated purpose on behalf Selectmen.	to me through other satisfactory evidence of to be one of the persons whose
	Notary Public My Commission Expires:
COMMONWEALTH OF	MASSACHUSETTS
County of, ss.	, 2010
to me through other satisfactory evid	ence of identification, which was persons whose name is signed on the that he signed it voluntarily for its stated
	Notary Public My Commission Expires:

TOWN OF TYNGSBOROUGH Application for License; Renewal of License Automatic Amusement Device(s)

Business Name:	-Funtagious, Inc
Address:	- Funtagious, Inc 18 Portview Place Tyngsborough, MA 018
Type of Business	Family Entertainment Center
•	(Include Description of Business and Reason for Application)
Owner:	Joseph DiPilato 3 8/2/61 (Include Social Security Number and Date of Birth) S: Lisa DiPilato 4/23/57
Co-Owner(s)/Partners	S: Lisa Di P. Lato (Include Social Security Number and Date of Birth)
Device: Fast To	List of Automatic Amusement Devices Fack Aur Hockey Table Serial # 127937
Massachusetts Depart	ment of Standards - M#
Vendor:	
	Company Name, Address and Company Owners Name)
Device: <u>Great A:</u> Massachusetts Departi	nerican Junior Air Hockey Serial # JLPH 4932 ment of Standards - M#
Vendor:	
(Include	Company Name, Address and Company Owners Name
Device: <u>Eagle</u> Massachusetts Departr	Pool 7661e Serial # 912547 nent of Standards - M #
	Company Name, Address and Company Owners Name
Include (Device: <u>Eagle F</u> Massachusetts Departn	Company Name, Address and Company Owners Name Oool Teble Serial # 912548 nent of Standards - M #
1	Company Name Address and Company Owner Name)
(Include (Company Nome Address and Company Owners No.

Device: Maximum Speed Racing Massachusetts Department of Standards – M#	Serial # AWO 024715
Vendor: (Include Company Name, Address and Comp	any Owners Name)
Device: Marinum Speed Racing Massachusetts Department of Standards - M#	
Vendor:(Include Company Name, Address and Compa	any Owners Name)
Device: CVE Ball WIZACA Massachusetts Department of Standards - M#	Serial # 329
Massachusetts Department of Standards – M#	Seliai-#
	· · · · · · · · · · · · · · · · · · ·
Vendor:(Include Company Name, Address and Company	ny Owners Name)
Device: Maximum Crossfire Printhal Massachusetts Department of Standards - M#	1 Serial # 1/2 01-07473-00
Vendor:(Include Company Name, Address and Company	
(Include Company Name, Address and Company	ny Owners Name)
Device: Zero Point	Serial #_ <i>P1T 5</i> 3 2 6
Massachusetts Department of Standards – M # Vendor:	
(Include Company Name, Address and Compan	y Owners Name)
Device:	Serial #
Massachusetts Department of Standards - M #	
Vendor:	
(Include Company Name, Address and Company	Owners Name)
I certify under the pains and penalties of perjury that all the best of my knowledge and belief, and I further certify that these to all State and Federal Laws, including, but not limited to, Massach 7, 8 and 17. Also pursuant to Massachusetts General Laws, Chapter and belief, have filed all state tax returns and paid all state and local taxes) required under law.	devices shall not be used as gaming devices pursuant nusetts General Laws, Chapter 271 Section(s) 3, 5, 5A
Signature of Individual or Corporate Name Soci	al Security Number or Federal ID Number
Ву:	
By: Corporate Officer	Telephone Number

Device: Pump It Of Dance Floor Serial # Amod - Pu Massachusetts Department of Standards - M#	6XA
Vendor: (Include Company Name, Address and Company Owners Name)	
Device: MAD WAVE Motion Theater Serial # MT-65-16 Massachusetts Department of Standards - M#	<u> -458</u>
Vendor:	
(Include Company Name, Address and Company Owners Name)	·
Device: Need for Speed Undergrown Serial # GVRKUG Massachusetts Department of Standards - M#	000679
Vendor:	
(Include Company Name, Address and Company Owners Name)	
Device: Need for Speed underground Serial # 6VRKUGO Massachusetts Department of Standards - M#	00731
Vendor:	
(Include Company Name, Address and Company Owners Name)	
Device: Nick Toon Racing Serial # N7RS - 019 Massachusetts Department of Standards - M #	21
	
vendor:(Include Company Name, Address and Company Owners Name)	
Device: Tekken 5 Serial # Tx 50000	
Device: Tekken 5 Serial # TK 50809 Massachusetts Department of Standards - M#	 _
Vendor:	
(Include Company Name, Address and Company Owners Name)	
I certify under the pains and penalties of perjury that all the information on this application is true to the best of my knowledge and belief, and I further certify that these devices shall not be used as gaming develocal State and Federal Laws, including, but not limited to, Massachusetts General Laws, Chapter 271 Section 7, 8 and 17. Also pursuant to Massachusetts General Laws, Chapter 62A, Section 49A, 1, to the best of my and belief, have filed all state tax returns and paid all state and local taxes (including real estate and personal taxes) required under law.	ices pursuant on(s) 3, 5, 5A,
Fundame Trace Signature of Individual or Corporate Name Social Security Number or Federal ID	Number
By: Ask 19. P. M. (578) C-19-32-37 Corporate Officer Telephone Number	· · · · · · · · · · · · · · · · · · ·

TOWN OF TYNGSBOROUGH BOARD OF SELECTMEN GENERAL APPLICATION/RENEWAL FORM

This is a general application for a license that the Board of Selectmen may grant. All license applications to the Tyngsborough Board of Selectmen MUST be accompanied by the following information.

	1. Type of License: Common Victuallec
	la. Identify: New Renewal Transfer
2	2. Name of Applicant(s): Joseph & Lisa D, Pilato
	2a. Address: 2 Lake Shore Drive So., Westford, MA 01886
	2b. Soc. Sec. #: (Joseph)
	2c. Phone # Business (76) 649 - 3237 / Home (77) 392 - 7844
3	. Owner(s) Name: Joseph & Lisa DiPilato
*.	3a. Address: 2 Lake Shore Drive So., Westford, MA 01886
7	3b. Soc. Sec.
	3c. Phone #: Business (976) 649 - 3237 / Home (978) 392 - 7844
4,	Name of Business: Funtagious, Inc
	Business Address: 18 Pondview Place, Tyngsborough, MA 01879
6.	Date License is Required by Applicant: // 0///
	Do you currently hold a similar License - What Type?
	Have you previously applied for a License? (Yes) (No)
	Have you ever had a license revoked? (Yes)(No)
	If yes. Why?

A. Floor Pla B. Seating I	n (show all main feature	10". es, bar, exits, re	
11. Proposed Ho <u>DAYS</u>	ours of Operations: <u>HOURS</u>	DAYS	HOURS
Monday	6AM - 11PM	Friday _6A	AM - Midnigh
Tuesday	6 AM - 11 PM		6AM - Midnight
Wednesday	6 AM - 11 PM		1:00 - 11:00 pm
Thursday	6 AM - 11 PM		.
12. Has the app	licant operated a simila	r business (if ag	oplicable):
	f Business:		
12b. Address:			
13. Federal Tax	No. (if applicable)		
I certify that the Tyngsborough Police Department may run a criminal records check for any prior offenses and that this information may be transmitted to the Local Licensing Authority at their request. Date: 19/93/0 Signature: Joseph N. P. Puller			
I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all State Tax Returns and Paid all State and Local Taxes required by law.			
Date: 13/22/10 Signature: foseft A. P. Chat			
I certify that I have read through the conditions and included with this license and agree to comply with any further stipulations that the Licensing Authority may from time to time approve. I also hereby authorize the Licensing Authority or their agent to conduct whatever investigation or injury is necessary to verify the information contained in this			

Adopted - November 3, 1997

application.

Date: 15/52/10

TOWN OF TYNGSBOROUGH APPLICATION FOR WEEKDAY ENTERTAINMENT

Date: 13/33/10
in accordance with Massachusetts General law, Chapter 140, section 183A, hereby requests a weekday entertain license for:
Establishment: Funtagious, Inc
Address: 18 Ponlyew Place Tyngsholough, MA 01879
Weekday Entertainment at the above mentioned establishment will include the following:
Dancing by patrons Vocalists Disc Jockey Jukebox Orchestra (please state number of pieces) Bands (please state number of pieces) Floor Show (please describe) Television Radio/Stereo Piped in Music OTHER: (please describe fully) Bucthday pacties: (as pacate, family in a grown events)
Please use additional pages as needed to fully describe the type and scope of the proposed entertainment. PLEASE NOTE: Should you be granted a license, only those activities specifically identified in this application form will be deemed licensed, and that any activity not specifically identified or described will not be deemed to be licensed.
HOURS WHICH ENTERTAINMENT WILL BE CONDUCTED
Monday
I agree not to change the type of entertainment provided in my establishment without the prior written permission of the Local Licensing Authority.
Signature of Licensee: A.M. I.R. A.

TOWN OF TYNGSBOROUGH APPLICATION FOR SUNDAY ENTERTAINMENT

te: 12/27	110
In accordance w requests a week	with Massachusetts General law, Chapter 136 and 140, section 183A, hereby day entertain license for:
	Funtagious
Address:	18 Pond View Place Tyngsbosough, MA 01886
	Tyngshosough, MA 01886
Weekday Enterta	ainment at the above mentioned establishment will include the following:
	Dancing by patrons
	Vocalists Disc Jockey
	Jukebox
•	Orchestra (please state number of pieces)
	Bands (please state number of pieces)
	Floor Show (please describe)
	Television
	Radio/Stereo
	Piped in Music
	OTHER: (please describe fully)
	Birthday parties; corporate, family, # group events
To 1	$oldsymbol{V}$
specifically identif	nal pages as needed to fully describe the type and scope of the proposed LEASE NOTE: Should you be granted a license, only those activities led in this application form will be deemed licensed, and that any activity not led or described will not be deemed to be licensed.
	HOURS WHICH ENTERTAINMENT WILL BE CONDUCTED
Sunday	1:00 P.M. to 1/100 pm
agree not to char written permission	nge the type of entertainment provided in my establishment without the prior of the Local Licensing Authority.
Signature of Licen	see: Jan L. D. Robert

Wed, Dec 29, 2010 at 3:16 PM



town of borough

Michael Gilleberto <mgilleberto@tyngsboroughma.gov>

Mr. Dipolito Funtageous Auto Amuse Devices

Rich Burrows <rburrows@tyngsboroughma.gov>

To: Therese Gay <tgay@tyngsboroughma.gov>

Cc: William Mulligan <wmulligan@tyngsboroughma.gov>, Michael Gilleberto <mgilleberto@tyngsboroughma.gov>

Michael, myself and the Chief went and made observations of the machines at 18 Pondview Place. We observed that the machines are standard and do have coin slots, however Mr. Dipolito explained that the machines will not need coins and will have credits already on them, and that patrons will be using them as a service and just walk up to a machine and press the play button and they will work. He showed us brochures explaining the process as well.

Rich

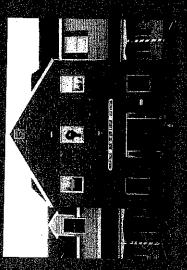
[Quoted text hidden]

Richard C. Burrows
Deputy Chief of Police
Tyngsborough Police Department
20 Westford Road
Tyngsborough, MA. 01879
V 978-649-0188
F 978-649-2324

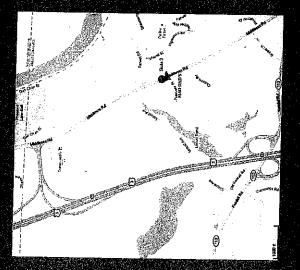
</PRE>NOTICE-- This message is for the designated recipient only and may contain confidential, privileged or proprietary information. If you have received it in error, please notify the sender immediately and delete the original and any copy or printout. Unintended recipients are prohibited from making any other use of this e-mail. Be advised that the Attorney General has ruled that communication by e-mail in the public domain is not confidential. In compliance with Federal Rules of Civil Procedure (FRCP) all email communication will be archived and retained for at least three years.

12/30/2010 1:02 PM





(0)







Succiled





60 Minutes Arcade - Free Play



\$20.00 per Additional Person. \$200,00 (up to Party of 8).

Plus \$30,00

Plus \$25.00

\$25.00 per Additional Person. \$250.00 (up to Party of 8).

\$20.00 per Additional Person

\$200.00 (up to Party of 8)

Plus \$25.00

Plus \$30.00

\$300.00 (up to Party of 8)

\$30.00 per Additional Person.

\$25.00 per Additional Person

\$250.00 (up to Party of 8)

Plus \$30.00





TOWN OF TYNGSBOROUGH

Office of the Town Administrator 25 Bryants Lane

Tyngsborough, MA 01879
Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320
E-mail: mgilleberto@tyngsboroughma.gov

Correspondence for the weeks ending December 24 and 31

Sprint Compliance Form Town Counsel - Shyjan vs. Conservation Comm. Town Counsel - Tyngsboro Sports Center Supt. of Schools - School Committee vacancy MIIA EAP services notice Building Commissioner - Tyngsboro Sports Ctr. Education Foundation - Dinner Theatre notice S&R Corporation - request to use property Town Administrator - egress/exit Congresswoman Tsongas Holiday Card Installment of Brandeis University president Police Chief - officers out due to injury Town Counsel - Monthly Report MIIA Nominating Committee Report School Committee minutes from December 7 Letter from Ms. Mailander and Mr. Hallenborg regarding Pawtucket Boulevard **RMA** Newsletter

December 30, 2010
December 30, 2010
December 30, 2010
December 30, 2010
December 29, 2010
December 29, 2010
December 29, 2010
December 29, 2010
December 28, 2010
December 28, 2010
December 28, 2010
December 22, 2010

December 21, 2010 December 20, 2010

RMA NEWSLETTER

nere DEC CALLANT 9: 08 PROVINCE LIGHT, MA.



December 2010 - Vol. 14, No.



Dear Friends:

If it is really true that time flies when you are having fun then this past year has been an absolute ball! Well, it has at least been exciting and challenging, which is close enough, I guess. All I know for sure is that the time between these annual newsletters seems to diminish each year. Could it possibly have something to do with my advancing years? I am sure there are some folks who read this who must shake their heads in wonderment and say, "Is he still at it?" And my answer to that is, "Sure - why not? Why would I leave something I love so much?" Anyway, I am still here and we are still here and we (or at least some of us) hope to be around for many more years to come! God has allowed me to continue on this long and I am thankful for the bounty He has bestowed upon me.

I write this Thanksgiving week with the alarming knowledge that Christmas is just around the corner and the realization that Christmas decorations must be put up and wondering how it will ever get done in time. There has been no snow yet but that too is not far away and I worry about how much longer the aging snow blower will continue to do its job.

There is no worry, however, as to whether we will continue to do what we try to do best, which is to serve the needs of our clients. We are so blessed to have had so many clients remain with us over the years while others have come and gone by the scores. Cities like Cranston, Rhode island; Annapolis, Maryland; Madison, Wisconsin; North Shore, Wisconsin, Fire Department, Oak Lawn, Illinois; Peoria, Illinois;





Fremont. Ohio: Burbank, Illinois: Bridgeview, Illinois; River Forest, Illinois: Joplin, Missouri; and Loveland, Colorado, have remained with us for more years than I care to admit, but I hope they all know just how much their continued loyalty means to Steve and I and the crew here in the office. We do our best to repay their loyalty and I want them all to know that we never, ever take them for granted. Without them, there would be no Resource Management Associates. inc.

(assessment center); Hopkinsville, Kentucky, Police Department (written examination and assessment center); Chatham, Illinois, Fire Department (written examination and assessment center).





New Clients

We continue to celebrate the arrival of new clients as well as the return of some that we have not heard from for a very long time. We are currently working on an Investigator II written examination for the City of Aiken, South Carolina, whom we have not heard from for several years. Other new clients for whom we have completed work or are about to begin work this year include Lynnfield, Massachusetts (police chief assessment center); Maynard, Massachusetts (fire study); Milford, Connecticut, Fire Department (written examination) and East Hartford, Connecticut, Fire Department (written examination): Streamwood, Illinois, Fire Department

Yankee Doodle is Dandy

Connecticut is one of our smaller states. but it has been a place of great opportunity for us in recent years. Five years ago our only client in Connecticut was the City of Norwalk Police Department for whom we did both written and oral promotional examinations. In the last two years we have done Stamford (fire department exams), written Waterbury (fire department written examinations). Bridgeport (fire department written exams and assessment centers), New Haven (police written and orals exams) and West Haven (fire written and oral exams and assessment center). And we are not done yet. Coming up next year are Bridgeport Assistant Fire Chief exam, New Haven EMS Supervisor exam and Norwalk Fire Department written and oral examinations.





On the Road Again

I judge our work schedule on the amount of time I spend on the road, and this past summer it was way too quiet for me, but we made up for it after Labor Day. In fact, I had eight consecutive weeks in which I was in one place or another, including several trips to Connecticut, one to Colorado, one to Kentucky and another to Tennessee. Marlene accompanied me on my trip to Hopkinsville, Kentucky for three days and again the following week to Connecticut where we spent seven nights in three separate hotels. The highlight of the trip (other than November 10, which we all remember as the Marine Corps Birthday), was November 11 (Veterans' Day), when we took the commuter train to New York City and spent the day on another Grey Line Tour of the upper Manhattan area. We had lunch in Harlem just a block from the old Apollo Theater, which is legendary in the entertainment business. The weather was good and we had a very nice time. I was able to take care of business in Norwalk, New Haven and Bridgeport during this trip, so it was also very productive.

Several days during my eight-week odyssey were spent in Loveland,

Colorado, where I enjoyed seeing Chief Luke Hecker, who took over several years ago after our good friend Tom Wagoner retired to manage his guest ranch up in Idaho. We don't get called back to Loveland as often as I would like, but it is always a trip I look forward to because of the friendliness of the people and the great assistance we always get from the staff. In this case Lt. Tim Brown was our contact and did a great job of helping us put the process together and keeping it on track.

Steve's travels have been somewhat more limited, but he also knows the joys of being on the road. Earlier this year he, Jim Eaves and Ernie Russell were in Bowling Green, Kentucky for several days doing what they do best. Fortunately, Steve manages to stay busy and most of the time I don't know where he is without looking at the calendar.



The Nerve Center

The nerve center of a police department is its central records and communications center and that is also true in our own small organization. We are only as good as the support staff allows us to be, so I always appreciate the opportunity to acknowledge and thank our great support staff who help to keep the wheels on the

train and turning in the right direction.

Theresa DeMarchi continues to keep us on the financial straight and narrow and pitches in to help whenever help is needed. Rosetta Ivery, who has just about completed her tenth year of service, continues to keep our written exams up to date, a never-ending chore.

In addition, Ms. Cheryl Newman has been helping to keep the ship afloat and has provided invaluable assistance on a number of fronts.

The newest member of our team is Ms. Cari Sonnefeldt, who resides with her family here in Tinley Park.

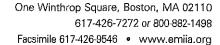
We are fortunate to have a number of projects already lined up for the Spring of 2011, including Franklin, Tennessee fire testing; Bloomingdale, Illinois fire testing; Carbondale, Illinois police testing; and additional fire department testing in Norwalk, New Haven, West Haven and Bridgeport, Connecticut. We look forward to a productive and prosperous year and we hope that all of you find joy and happiness in the months ahead.

Until we can visit with you again, all of us here wanted to wish each and all of you the very best for this Holiday Season and in the year to come.

2011

Looking Ahead

While we never know what the year to come will bring, we are optimistic that the economy that has troubled so many of our clients will improve, that vacant positions will be filled and that needed testing will take place. We managed to survive this year while others have not and for that we are indeed grateful. While there may not be sunlight at the end of the tunnel, there is at least a dim glow that we hope holds great promise for better days to come.





response 22 10 1:50

MEMORANDUM

TO:

MIIA Members

FROM:

Geoffrey Beckwith, President, MIIA

DATE:

December 20, 2010

SUBJECT:

Report of the Nominating Committees

It is once again time to select nominees for Directors of the Massachusetts Interlocal Insurance Association, Inc. and the MIIA Property and Casualty Group, Inc. The members for these Boards will be elected at the MIIA Annual Meeting on January 22, 2011.

The Property and Casualty Group, Inc. is the corporation that provides members with insurance coverages. The Massachusetts Interlocal Insurance Association, Inc. is the designated administrator for the organization. Your municipality is a voting member of both corporations.

Enclosed you will find the Nominating Committee Report for each of the abovementioned organizations, a Nominating Form in case you wish to nominate someone else as a Director of one or more of the organizations, and a form to specify who is your "voting delegate." Please read the enclosed Requirements for Voting prior to completion of the Voting Delegate Designation Form and return that form to us as soon as possible.

We look forward to seeing you at the Annual Meeting.



MEMORANDUM

TO:

MIIA Members

FROM:

Massachusetts Interlocal Insurance Association, Inc.

Nominating Committee: Geoffrey Beckwith, Wayne Marquis, Ira

Singer, Mary Pat Flynn, David Kielson

DATE:

December 20, 2010

SUBJECT:

Nominating Committee Report

MIIA is again calling on its members to participate in electing officials to serve on the Massachusetts Interlocal Insurance Association, Inc. Board of Directors. The Board is responsible for approving and directing the overall policies of the MIIA programs. This is an important task since MIIA now has a combined membership of more than 350 members for the health, property and liability, and workers' compensation insurance programs.

At the MIIA Annual Meeting to be held on January 22, 2011, members will elect two individuals to fill three-year terms to expire in January, 2014. The Nominating Committee respectfully submits the following candidates for nomination as members of the Board of Directors:

For three-year terms expiring in January 2014:

Colleen Corona, Selectman, Easton. Ms. Corona has been a selectman in Easton since 2003, serving as chair for more than five years. She serves on the MMA Board of Directors and is currently president of the Massachusetts Selectmen's Association. She is a member of the Local Government Advisory Commission. Ms. Corona is completing a three-year term on the MIIA, Inc. Board.

Reginald Stapczynski, Town Manager, Andover. Mr. Stapczynski was formerly town manager in Wilmington. He is past president of the MMA and has also served as President of the Massachusetts Municipal Management Association. He is completing a three-year term on the MIIA, Inc. Board.

Mary Pat Flynn, Selectman, Falmouth, and Ira Singer, Town Administrator, Middleton, will continue to serve in three-year terms expiring in January, 2012. David Kielson, Select Person, Chesterfield, and Wayne Marquis, Town Manager, Danvers, will continue to serve in three-year terms expiring in January, 2013.



Enclosed are the Requirements for Voting and a Voting Delegate Designation Form to help us prepare for the voting. MIIA would greatly appreciate your designating the voting delegate for your municipality. Also enclosed is a Nominating Form, should you wish to nominate another candidate. Please contact MIIA staff if you have any questions on the election process.

Rocco Longo, Town Administrator, Marshfield, and Wayne Marquis, Town Manager, Danvers, will be continuing to serve in two-year terms expiring in January, 2012.

If you have any questions about the voting process, please call Ann Ludlow at 617-426-7272 ext. 258.



MASSACHUSETTS INTERLOCAL INSURANCE ASSOCIATION, INC.

NOMINATING FORM

If you are an eligible voting delegate and wish to nominate someone other than the nominees listed in the committee's report, who is also an eligible voting delegate, please indicate the person's name in the space below. The nomination ballot must be received by January 10, 2011, twelve (12) days prior to the Annual Meeting.

I WISH TO NOMINAT	E THE FOLLOWING PERSON TO SERVE AS DIRE	сто
MASSACHUSETTS	NTERLOCAL INSURANCE ASSOCIATION, INC.	
Name:		
T-11		
Biographical Data:		
		- -
· · · · · · · · · · · · · · · · · · ·		_
		-
	Voting Delegate of	
Name (please print)	(City/Town)	_
Signature		

Please return this form by January 10, 2011 to:

Stanley J. Corcoran
Executive Vice President
Massachusetts Interlocal Insurance Association
One Winthrop Square
Boston, MA 02110
FAX: (617) 426-9546



MIIA PROPERTY & CASUALTY GROUP, INC.

NOMINATING FORM

If you are an eligible voting delegate and wish to nominate someone other than the nominees listed in the committee's report, who is also an eligible voting delegate, please indicate the person's name in the space below. The nomination ballot must be received by January 10, 2011, twelve (12) days prior to the Annual Meeting.

	ETHE FOLLOWING PERSON TO SERVE AS DIRECTOR ASUALTY GROUP, INC.
Name:	·
Title:	
City/Town:	
Biographical Data:	
-	
	Voting Delegate of (City/Town)
Name (please print)	(City/Town)
Signature	

Please return this form by January 10, 2011 to:

Stanley J. Corcoran
Executive Vice President
Massachusetts Interlocal Insurance Association
One Winthrop Square
Boston, MA 02110
FAX: (617) 426-9546

REQUIREMENTS FOR VOTING

The requirements for voting are detailed in the by-laws of each organization. In summary:

Each member shall have one vote which may be cast only by its voting delegate. The following individuals are eligible voting delegates.

- In the case of a city or a town with a city form of government, (a) its chief executive, or (b) a person designated in writing by such chief executive;
- 2. In the case of all other towns, (a) the Chairman of its Board of Selectmen, (b) another Selectman designated in writing by such Chairman, or (c) the Manager designated in writing by such Chairman.

Voting in person is required for the election of the Board of Directors. All voting will be by a vote of hands, unless a roll call is requested by three or more voting delegates.

The nominees receiving the greatest number of votes shall be deemed elected as directors and shall commence their terms at the conclusion of the meeting.

If you are a voting delegate and wish to nominate another person as a director, such nomination must be received in writing no later than January 10, 2011, twelve days prior to the Annual Meeting. Enclosed is a nomination form for this purpose.

VOTING DELEGATE DESIGNATION FORM

The voting	delegate for the City	Town of		<u> </u>	-
is		•			
(Name)	(Please Print)				
		•	•		
·					
			-		
				•	

Please return this form by January 10, 2011 to:

Stanley J. Corcoran
Executive Vice President
Massachusetts Interlocal Insurance Association
One Winthrop Square
Boston, MA 02110

or FAX to: (617) 426-9546



TOWN DEC SO PH 1: 1:

THINESSURBUGH, MA

Sprint – Contract Compliance and Audit Mailstop: KSOPHN0412 6450 Sprint Parkway Overland Park, KS 66251

December 17, 2010

Re: Massachusetts Law Compliance Certification

Dear Supplier:

We wanted you to be aware of a new regulation, effective March 1, 2010, that requires your compliance. As you know, our agreement, including but not limited to Contracts, Purchase Orders, or Field Order Contracts with your company requires you to comply with all applicable laws. In particular, Massachusetts passed a regulation which provides that Sprint must require its service providers who have access to the personal information of a Massachusetts resident to implement and maintain appropriate security measures to protect personal information consistent with the Standards for the Protection of Personal Information of Residents of the Commonwealth, Mass. Regs. Code tit. 201, § 17.00 et seq. ("Massachusetts Security Standards").

Our records show that your company is a Sprint service provider that may access personal information of Sprint customers or employees who are residents of the Commonwealth of Massachusetts. As a Sprint supplier/vendor you are required to be in compliance with this regulation.

Please complete, print and sign the certification form on the back and scan the signed copy to email address: sprintcompliance@sprint.com within 60 days of receiving this notice. If this certification is not returned to Sprint, your ability to continue providing services to Sprint will be impacted up to and including termination, as provided in your agreement or Contracts with Sprint. This certification indicates you are either already in compliance with this regulation or will be in compliance as required by the Massachusetts Security Standards.

Please contact sprintcompliance@sprint.com with questions regarding this letter.

Sincerely,

Jody Brady, Manager

Sprint SCM Policy, Process & Compliance



maintains or will impersonal information	hereby certify that (a) I a mpany referenced below and (b) S plement and maintain appropriate n consistent with the Massachusett Regs. Code tit. 201, § 17.00 et seq.	upplier has implemented and e security measures to protect
Company Name:		
Signature:		·
		, in the second
Check if applicable		
provides products/ser	the company information above. I rvices that would not require acces fore does not require certification.	s to personal information, as

40 Church Street, Suite 500, Lowell, Massachusetts 01852-2686 Telephone (978) 458-4583 Facsimile (978) 937-0950

December 28, 2010

Tyngsborough Conservation Commission Town Hall 25 Bryants Lane Tyngsborough, MA 01879

File: Tyngsborough

Re: Shyjan, et al v. Tinnirella, et al & Conservation Commission

Civil Docket No.: MICV2003-04079-L2

Dear Commissioners:

Where Ms. Tinnirella has withdrawn her application before the Conservation Commission and the state for a license for a dock on a great pond, upon motion by Ms. Tinnirella, the court has dismissed the case. See enclosed Judgment.

The Plaintiffs, Shyjan, have a right of appeal and I will advise if an appeal is filed.

Sincerely yours,

Charles J. Zaroulis
Town Counsel

CJZ:ksz Enclosure.

Cc: Board of Selectmen

Tyngs/Tinnirella Dismissal

Commonwealth of Massachusetts County of Middlesex The Superior Court

CIVIL DOCKET#: MICV2003-04079-L2

RE: Shyjan et al v Tinnirella et al

TO: Charles J Zaroulis, Esquire

40 Church Street

Suite 500

Lowell, MA 01852-2686

CLERK'S NOTICE

SEE ATTACHED COPIES.

Dated at Woburn, Massachusetts this 22nd day of December, 2010.

Michael A. Sullivan, Clerk of the Courts

> BY: Brian Burke Assistant Clerk

Telephone: 781-939-2754

Disabled individuals who need handicap accommodations should contact the Administrative Office of the Superior Court at (617) 788-8130

Commonwealth of Massachusetts County of Middlesex The Superior Court

24

CIVIL DOCKET# MICV2003-04079

Michael Shyjan,
Joan M. Shyjan
vs
Ann Tinnirella,
Town Of Tyngsborough,
Robert Sherburne, Member Conservation Commission Town Of Tyngsborough,
Lucille Gertz, Member Conservation Commission Town Of Tyngsborough,
Henry Jungmann, Member Conservation Commission Town Of Tyngsborough,
Joseph J. Kablik, Member Conservation Commission Town Of Tyngsborough,
Cynthia Hanna, Member Conservation Commission Town Of Tyngsborough,
Brian Logue, Member Conservation Commission Town Of Tyngsborough

<u>JUDGMENT</u>

This action came on before the Court, Joseph M. Walker III, Justice, presiding, and upon consideration thereof,

It is ORDERED and ADJUDGED: That the above civil matter is desmissed as being must.

Dated at Woburn, Massachusetts this 15th day of December, 2010.

Michael A. Sullivan, Clerk of the Courts

Approved as to Form:

By: Blean Duke

Assistant Clerk



40 Church Street, Suite 500, Lowell, Massachusetts 01852-2686 Telephone (978) 458-4583 Facsimile (978) 937-0950

VIA ELECTRONIC MAIL & USPS

December 28, 2010

Mr. Michael P. Gilleberto Town Administrator Town Hall 25 Bryants Lane Tyngsborough, MA 01879

File: Tyngsborough

Re: Tyngsboro Sports Center

Dear Michael:

This letter is a response to your E-mail of December 10, 2010, that you sent to me on behalf of the Board of Selectmen.

I. ISSUES

You present the following three (3) issues:

"First, a determination ... as to the occupancy load of the building – specifically as to whether or not the occupancy is limited by the number of parking spots. ..."

"Second, a determination ...as to whether or not certain activities are permitted under the special permit. ... A further determination ... as to any actions required by the petitioner and/or the Selectmen to address any activities that are not permitted under the current Special Permit. ..."

"Third, a review of other regulatory possibilities is required [local regulations, etc] to govern this type of event [I assume, mixed martial arts]. After consulting with Kopelman and Page (sic), their opinion was that there is already significant event-specific regulation in place at the state level."

II. FACTS

You present the following facts:



Mr. Michael P. Gilleberto, Town Administrator

Re: Tyngsboro Sports Center

December 28, 2010

A. First Issue: Occupancy Load:

Mark Dupell, for the years 2007, 2008, and 2009 certified a capacity of 650 for both stories; and in 2009 the certification apparently was amended with a first story capacity of 1,200, with no reference to the second story.

By letter to you, dated December 2, 2010, Donald Crowell writes that the certificates show "... a total of 114 parking spaces provided." [Note, the occupancy load certificates are silent on parking spaces.] He also references Paul Davies' calculations in 2008 of an occupancy load of 1,200; but the parking spaces did not change from 114. Mr. Crowell's opinion, referencing the Zoning By-Laws, Section 3.10.24, is that a 1,200 occupancy load requires that the occupancy load be re-certified because of the 114 parking spaces.

B. Second Issue: Activities Permitted Under the Special Permit:

The pending entertainment application contains a detailed list of activities and a copy of the special permit, and associated applications and "feedback" were provided to me.

C. Third Issue: Regulations Governing Mixed Martial Arts Events:

A copy or summary of Kopelman & Paige's opinion was not provided to me.

No information was provided to me as to specific regulations that the Board wishes to address.

III. DISCUSSION

A. First Issue: Occupancy Load:

Paul Welcome, as the official responsible for the enforcement of the State Building Code (the "Code"), is to review and comment whether the Code permits occupancy of 1,200.

Zoning By-Laws, Section 3.10.00, reads in part:

- 3.10.20 ... Adequate off-street parking must be provided to service all parking demands. ...
- 3.10.21 ... These requirements may be reduced ... by the Special Permit Granting Authority. ...



Mr. Michael P. Gilleberto, Town Administrator

Re: Tyngsboro Sports Center

December 28, 2010

3.10.23 ... The number of seats in benches, pews ... shall be calculated at twenty inches for each seat. ...

3.10.24, Use ... Any other non-residential use, or any use in involving a combination of functions similar to or listed herein. ... Number of spaces ... A number ... as determined by ... the special permit granting authority. ...

Note, Section 3.10.24 does not list a commercial recreation facility.

I do not find in the Zoning By-Laws any reference to the Code occupancy load in conjunction with the Zoning By-Laws parking requirements.

My view is that the occupancy under the Code is not related to the Zoning By-Laws; and without further information, I am not in agreement with Mr. Crowell's view that the occupancy load must be re-certified because of the 114 parking spaces, unless someone can point out to me that this requirement is in the Code. But, the occupancy load may need to be revisited because of other Code requirements. The occupancy limit, in view of the number of parking spaces, could have been addressed during the special permit hearing as a possible condition; but it was not.

B. Second Issue: Activities Permitted:

The Zoning By-Laws, Section 11.44, defines "Commercial Recreation ... open to the public for a fee such as facilities for ice skating ... racquet sports, bowling, horseback riding, swimming, and miniature golf." However, Amusement Facilities Indoors and Outdoors contemplate a much larger venue such as a theater, outdoor amusement park, stadium, race tracks.

Section 2.11.50 of the Zoning By-Laws, Accessory Use Regulations does not make any reference to the instant subject matter.

Section 4.10.10 of the Zoning By-Laws, Special Permits – Major Business Complex, includes indoor commercial recreation complexes.

In my view, the definition of commercial recreation does not include professional or amateur boxing, wrestling, or mixed martial arts events sanctioned by the Massachusetts State Athletic Commission (the "MSAC") with attendance by several hundred customers. The definition contemplates that a member of the

Mr. Michael P. Gilleberto, Town Administrator

Re: Tyngsboro Sports Center

December 28, 2010

public may pay a fee to engage in recreational activities such as ice skating, racquet sports, and the like. The public pays a fee to participate in a sport as recreation.

I have also considered whether such mixed martial arts events might possibly be an accessory use, for instance under Section 2.11.5 of the Zoning By-Laws, but concluded that they are not.

In reviewing the language of a by-law, I note the following:

Merriam-Webster's Collegiate Dictionary, 10th Edition, defines the word "recreation" as: "... refreshment of strength and spirits after work ... a means of refreshment or diversion: HOBBY. ..."

The American Heritage Dictionary of the English Language defines the word "recreation" as: "Refreshment of one's mind or body after labor through diverting activity; play."

I have reviewed appellate and trial case law and could not find any case that would somehow include, under the definition of commercial recreation in the By-Laws, events such as wrestling, boxing, and mixed martial arts with several hundred people in attendance; and I do not find, as stated above, that such events can be considered an accessory use.

An "accessory use" is a use which is clearly incidental to and customarily found with and located on the same zoning lot as the principal use to which it is related. Generally, local by-laws take one of three approaches to the issue of accessory uses. First, a by-law, as is the case in Tyngsborough, may specifically permit those accessory uses, or types of accessory uses, allowed in connection with the principal use. Second, a by-law may specifically prohibit certain accessory uses, allowing others by implication. Finally a by-law may generically permit accessory uses "incidental to and customarily found with" the principal use.

Where an accessory use is specifically permitted or prohibited, the availability of a particular use is largely a matter of statutory construction. Tyngsborough's By-Laws generically do not permit uses "incidental to and customarily found with" the principal use.

As a general rule, a zoning by-law must be construed reasonably with regard both to the objective sought to be obtained and to the general structure of the by-law as a whole. Terms used in a zoning by-law should be interpreted in the context of



Mr. Michael P. Gilleberto, Town Administrator

Re: Tyngsboro Sports Center

December 28, 2010

the by-law as a whole and, to the extent consistent with common sense and practicality, they should be given their ordinary meaning.

Many decisions turn on the meaning of a specific, undefined word or phrase in a by-law. In such cases other legal contexts and dictionary definitions are helpful. If the words to be interpreted are everyday in nature, they should be interpreted in accordance with common usage, without artificial enlargement or contraction.

The literal meaning of a general term in a by-law must be limited so as to not include matters that, although within the letter of the enactment, do not come fairly within its spirit and intent.

My comments are not to be construed as applicable to a situation where, for example, classes are held for wrestling, boxing, karate, mixed martial arts and the like; and the participants then engage in some contest with other students or participants where parents, friends, and others are invited to attend the event and where such events are not sanctioned by the MSAC, with licensed promoters, and large crowds.

The applicant attached an addendum to its application for a license with ten (10) items and subsequently provided greater specificity regarding each item. I am of the view that, with appropriate conditions, items 1, 2, perhaps 3, 8 (birthdays), and 10 (sleep-ins) would not be prohibited. My view is that items 4, 5, 6, 7, or 9 (which was not defined) are not commercial recreation and, therefore, are not permitted.

C. Third Issue: Regulations Governing Mixed Martial Arts Events:

I need more information as to the concerns, if any, of the Board of Selectmen. In regard to boxing, wrestling, and mixed martial arts, as you know, the MSAC exercises control and licenses the events, the promoters, matchmakers, referees judges, trainers, and others. No information has been provided to me that the Board of Selectmen does not agree with the MSAC's licensing procedure or its regulations. However, at present it would be reasonable to first determine whether mixed martial arts events are permitted and then develop regulations and reasonable conditions for entertainment licenses in those areas not regulated by MSAC.

In my view, these events are well regulated as to personnel such as the promoters, matchmakers, medical personnel, etc., by the MSAC. However, I would strongly suggest that the Board promulgate regulations and conditions that address security such as the number of police officers and/or well-trained professional security



Mr. Michael P. Gilleberto, Town Administrator

Re: Tyngsboro Sports Center

December 28, 2010

staff necessary for the number of persons in attendance, the alignment of chairs and benches, with chairs and benches secured together so that they cannot be thrown or moved so as to impede exiting during a fire, and, if necessary, emergency lighting for a particular event, and the like.

IV. CONCLUSIONS

- A. First, the present occupancy load needs to be verified by the present Building Commissioner. The occupancy load need not be adjusted because of the 114 parking spaces but may need to be adjusted because of other Code requirements. In my view, these are two separate matters.
- B. Mixed martial arts events licensed by the MSAC are not a permitted or accessory use and require an amendment to the Zoning By-Laws.
- C. The above issues need to be resolved before any regulations and conditions are developed. In the event the Zoning By-laws are amended, then the Board, as a licensing authority, may consider promulgating reasonable rules and conditions on the license to avoid the creation of a nuisance or endangering the public health, safety, or order, and to address such matters as traffic, disruptive conduct, and noise. In addition, regulations and conditions should also address police and security details, the alignment and securing of the chairs and benches, and, if necessary, emergency lighting.

Please call me if you have any questions or to discuss.

Sincerely yours,

Charles J. Zaroulis Town Counsel

CJZ/jrz

cc: Board of Selectmen
Mr. Paul Welcome, Building Commissioner
Opinion File 2010

Tyngsborough Public Schools

Donald P. Ciampa

(978) 649-7488

Superintendent of Schools (1979)



Kerry Cavanaugh
Administrator of Special Education
(978) 649-8914

Kathleen Burnham Director of Curriculum (978) 649-7488 Joseph Messina School Business Administrator (978) 649-7488

December 23, 2010

Ms. Ashley O'Neill, Chair Board of Selectmen Tyngsborough Town Hall 25 Bryants Lane Tyngsborough, MA 01879

Dear Ashley,

On Wednesday, December 22, 2010, the Tyngsborough Town Clerk officially received Committee Member, Shaun McCarty's resignation from the Tyngsborough School Committee.

It is the sincere hope of the School Committee that a qualified candidate will make themselves known, and that the Board of Selectmen and the School Committee will again come together to address any mutual issues.

We would ask that this matter be placed on the Board of Selectmen agenda for the second January meeting (January 24th or 31st).

Sincerely,

Donald P. Ciampa Superintendent of Schools

DPC/ejg

TO STUDIES OF THE STU

Tyngsborough Public Schools



December 28, 2010

Re: EAP Services

Dear MIIA Member:

617-426-7272 or 800-882-1498 Facsimile 617-426-9546 • www.emiia.org

As a follow-up to our December letter announcing the release of \$2.5 million in participation credits, we mentioned that additional information would be forthcoming on updates to MIIA's EAP program. AllOne Health EAP has been providing MIIA members with Employee Assistance Services for the past 15 years. These services include counseling, training, substance abuse support, management consultation, legal/financial support and a variety of health and productivity services.

In 2011, MIIA will continue to partner with AllOne Health to offer these valuable services to our members but in a more cost effective way. By leveraging technology, we will be able to expand our reach and effectiveness of our communication through the use of Webinars and other on-line resources for orientations, education, and trainings.

Additionally, beginning in January, 2011, we will be offering AllOne Health's Flex-Benefit counseling services. Our previous EAP session model allowed up to six (6) EAP counseling sessions before a referral to a provider in the insurance plan was provided. In this new counseling model, a three (3) session counseling model will be provided followed by the additional flex benefit solution, when appropriate, or direct referral to a health plan when longer term counseling is recommended. AllOne Health's EAP Flex-Session benefit provides a way for AllOne EAP professionals to extend the number of counseling sessions available to a member. This extension may be approved by AllOne Health's utilization manager if, in the opinion of the AllOne designated counselor, an additional EAP counseling session, (or two), may result in the successful resolution of the presenting problem rather than requiring a referral to additional health providers.

This change of counseling model will not impact those members who are currently in counseling. Members who are currently participating in counseling may use up to the six sessions, if necessary.

If a member prefers to instead offer employees a traditional six (6) session EAP model, this will be available as a buy-up under MIIA's loss control grant program.

Another service of AllOne Health is in Organizational Development (OD). These consultative services are usually acquired at an hourly rate and include services such as teambuilding services, professional management coaching, individual assistance in business performance and mediation. Organizational Development services are often initiated by an administrator looking for assistance to resolve workplace conflict. Starting in 2011, instead of acquiring these services through AllOne Health's EAP

Program, the MIIA Loss Control grant program will be available as a way for cities and towns to fund the use of AllOne Health's organizational Development programs.

If you would like more information or clarification on the changes to our EAP services, please call John Kelly at 617-26-7272, ext. 252. We continue to look at ways to provide you with high quality cost-effective services. Sincerely,

Stanley J. Corcoran

Executive Vice President



Town of Tyngsborough Building Department

25 Bryants Lane Tyngsborough, Massachusetts 01879 Office: (978) 649-2300 Ext. 112

orana (h. 1200). Ermigolokoseki Ma.

December 28, 2010

Mr. Michael Gilleberto Town Administrator 25 Bryants Lane Tyngsborough, MA 01879

Re: Tyngsborough Sports Center 18 Progress Ave. Occupant Load.

After reviewing the information on the change of occupant load of the Tyngsborough Sports Center supplied by Paul Davies and Associates, it appears that the occupant load as calculated per 780 CMR Table 1009.2 Egress Width per occupant. The occupant, load of 1200, as calculated, meets the Building Code in respect to 780 CMR 1009.2 Egress Width.

But it appears that Mr. Davies failed to address other sections of the building and plumbing code, toilet and lavatory requirements per CMR 248.10.10 Table 1: Minimum Facilities for Building Occupancy.

In my opinion this building must be recertified using all required elements per 780 CMR 1008.0 and 248 CMR 10.10 to determine the correct occupant load of this building, along with separate floor plans showing how each event will be setup. Tables, chairs, egress, aisles, ring location, and calculate occupant load for each event.

Respectfully,

Paul L. Welcome

Building Commissioner

Cc:

Board of Selectmen

Attorney Charles J. Zaroulis, 40 Church Street, Suite 500, Lowell, MA 01852

Enclosure

PLW/dlm

780 CMR 1008.0 OCCUPANT LOAD

1008.1 Design occupant load: In determining required facilities, the number of occupants for whom *exit* facilities shall be provided shall be established by the largest number computed in accordance with 780 CMR 1008.1.1 through 1008.1.3.

- 1008.1.1 Actual number: The actual number of occupants for whom each occupied space, floor or building is designed.
- 1008.1.2 Number by Table 1008.1.2: The number of occupants computed at the rate of one occupant per unit of area as prescribed in Table 1008.1.2.
- **1008.1.3** Number by combination: The number of occupants of any space as computed in 780 CMR 1008.1.1 or 1008.1.2 plus the number of occupants similarly computed for all spaces that discharge through the space in order to gain access to an *exit*.
- 1008.1.4 Increased occupant load: The occupant load permitted in any building or portion thereof is permitted to be increased from that number established for the occupancies in Table 1008.1.2 provided that all other requirements of 780 CMR are also met based on such modified number. Where required by the code official, an approved aisle, seating or fixed equipment diagram to substantiate any increase in occupant load shall be submitted. Where required by the code official, such diagram shall be posted.

Table 1: Minimum Facilities For Building Occupancy. (*Optional by owner)

	Building	Us	e [oilets		ls Lavatorie			Other	1 -
	Clarification	Gro	Femal	es Male	Male	Each Sea	Fountair	Daily Showe	Fixture	s 248 CMR 10.10(19)
	Theaters	A-1	l 1 per 3	0 1 pe 60		1 per 100	1 per 1000		l service sink perfloo	
	Nightelubs, Pubs	A-2	I per 3	0 1 per 50	r 50%	1 per 75				(b), (m), (n), (p)
	Restaurants	A-3	1 per 3	0 1 per 60	50%	1 per 200				(b), (m), (n), (p)
	Hall, Museums, Libraries Etc.	A-3		0 1 per 100	50%	1 per 200				(b), (i)1., (m), (n), (p)
	Golisenni, Areni		1 per 3	0 1 per 60	50%	1 per 150				(b), (i)1., (m), (n), (p)
	House of Worship	A-4	1 per 5	0 1 per 100	50%	1 per 200				(b), (c), (m), (n), (p)
5	Stadiums Etc.	A-5	1 per 30	0 1 per 60	50%	1 per 150				(i)1., (m), (n), (p)
F	Pool	A5	1 per 40 bathers		1	1 per 60 bathers	At least one source	1 for every 40 bathers		(i)1., (m), (n), (p). See 105 CMR for bather load.
В	Bathing (Public Beaches)		1 per . 200	1 per 500	33%	l par 1000		1 per 1000	1 Service Sink	(d), (m), (n), (p)
	ay Care Facility Child)	E-I-3	1 per 20	1 per 20		1 per 20			1 Service Sink	(e), (m), (n)
į.	itaff)	N/A	1 per 20	1 per 25	33%	1 per 40				(i), (m), (n), (p)
	etention Facility Jetainee)	I-3	1 per 6	1 per 8	33%	1 per 6		1 per 8		(f), (m), (p)
L	taff)	N/A	1 per 20	1 per 25	33%	1 per 40				(i), (m), (n), (p)
_	wellings (Single)	R		One B	athroom (roup and O	ne Kitchen	Sink		(o), (q)
÷	fultiple)	R	On			and One K		per Unit		(o), (q)
-	otel/Motel)	R	ļ			гоош Стоир	per Unit			(m), (q)
	ormitories)	R-2	1 per 6	1 per 8	33%	1 per 8		1 per 8	1 Service Sink per Floor	(g), (m), (n), (p)
(Ki	ucational indergarten)	Е	1 per 20	1 per 20		1 per 20	1 per 75			(h), (i), (m), (n), (p)
L	ementary)	E	1 per 30	1 per 60	1 per 60	1 per 60	1 per 75		1.	
Ĺ.	condary)	Е	1 per 30	1 per 90	1 per 90	1 per 90	1 per 75		Service Sink Per	
	st Secondary)	E	1 per 90	1 per 180	1 per 180	1 per 180	1 per 75		Floor	
Stat		E	1 per 20	1 per 25	33%	1 per 40				
	ployee (Non- ustrial)*		1 per 20	1 per 25	33%	1 per 40		1 per 15*		(i), (m), (n), (p)
	lding ification	Use Group	Toile Females	ets Males	Urinals Males		Drinking Fountain	Bath/Shower	Other Fixtures	Pertinent Regulations 248 CMR 10.10(19)



The Education Foundation for Tyngsborough and the Friends of Tyngsborough Theater Proudly Present Their 3rd Collaborative Interactive Dinner Theater

"ARE YOU SWARTER THAN A....????"

Have you ever wondered "Am I smarter than a fourth grader? Fifth grader? After this hilarious interactive dinner theater you will have your answer!

Performed by the Award Winning Tyngsborough High School Theater Program, "ARE YOU SMARTER THAN A.....???" chronicles the hilarious tale of adolescent overachievers who are vying for the spelling bee championship of a lifetime. The show features a quirky, yet charming, cast of adolescent outsiders for whom a spelling bee is the one place they can stand out and fit in at the same time! Get out your dictionaries and be ready to participate in this interactive musical!

Show dates are Friday, January 21st and Saturday, January 22nd at the First Parish Church Hall located at 48 Main Street in Westford. The evening will start at 6:30 PM with informal social time, including a cash bar, offering a variety of beer and wine as well as an assortment of complimentary appetizers. Dinner will be catered by Culinary Creations and will feature carved seared Beef Tenderloin with a wild mushroom Madeira sauce and Chicken Florentine, garlic and herbed potatoes, and chef's vegetables. The meal will conclude with Culinary Creation's famous dessert buffet with coffee and tea. This amazing meal and full evening of entertainment is offered at a ticket price of only \$40. For ticket orders and information go to www.eftyng.org or call 978-649-3115 ext 1122.

ARE YOU SMARTER THAN A.....?

TICKET ORDER FORM

NAME		
PHONE		
FRIDAY, JANUARY	21 ST	
# of Tickets	@ \$40.00 Total_	, v , v , v , v , v , v , v , v , v , v
SATURDAY, JANUA	RY 22 ND	
y of Tickets	@ \$40.00 Total_	
	Total	cash/check

There are tables of 8 seats each as well as a limited number of 10-seat tables. Please indicate if you would like to purchase full tables.

Please make checks out to the Education Foundation for Tyngsborough (EFT) and mail or drop off to the Tyngsborough Middle School (attn: Ellen Singer) located at 50 Norris Road. If you would like to order tickets via telephone, you can do so at 978-649-3115 ext 1122.



Address 706 Broadway Street · Lowell, MA 01854

Telephone 978-441-2000 Fax 978-441-2002

Web www.sandrcorp.com

INDEMNITY AND HOLD HARMLESS

S&R CORPORATION (S&R) hereby issues this indemnity and hold harmless to the benefit of the TOWN OF TYNGSBOROUGH, MA (The Town), for the use of the existing parking lot of the First Parish Meeting House (the property), for the purpose of storing gravel materials.

During such time as S&R uses the property, S&R shall indemnify, hold harmless, the Town, its agents, employees, officers and volunteers from and against any and all liabilities, claims, penalties, fines, forfeitures, suits, administrative proceedings and the costs and expenses incident thereto, which may be alleged against the Town, or which the Town may incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, breach of any agreements whatsoever, contamination of or adverse effects on the environment, or any violation or alleged violation of governmental laws, regulations or orders caused by or resulting from the negligent acts or omission of any employee or agent of S&R or its contractors and subcontractors or from the failure or inadequacy of any equipment of S&R or its subcontractors.

S&R shall maintain general liability insurance in the amount of One Million Dollars (\$1,000,000.00) per person, Two Million dollars (\$2,000,000.00) per accident, and Five Hundred Thousand Dollars (\$500,000.00) for property damage, and excess liability insurance in the amount of Three Million Dollars (\$3,000,000.00) aggregate for injury or damage to persons or property, including injury or damage from hazardous materials, arising out of the acts, omissions or negligence of S&R, its agents, employees or subcontractors. Evidence of said liability policy shall be provided to the Town. The insurance contracts shall provide that the insurer or its agents shall notify the Town by certified mail, thirty (30) days prior to the cancellation of said insurance policies, of any non-renewal or decrease of diminution in the amount of coverage maintained by S&R.

Signed this 28th day of December, 2010.

Steven Ploof - 7reasurer

ACORD®	

PRODUCER	Willis HRH	877-945-7378	THIS CERT	TIFICATE IS ISS D CONFERS I	SUED AS A MATTER NO RIGHTS UPON T CATE DOES NOT AM	OF INF HE CE	RTIFICATI
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ACORD 25 (2009/01)

REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE

Coll:2852529 Tpl:1005887 Cert



S & R Corporation 706 Broadway Street Lowell, MA 01854 Tel: (978) 441-2000

Fax: (978) 441-2001

December 8, 2010

Michael Gilleberto Town Administrator Tyngsborough MA 01879

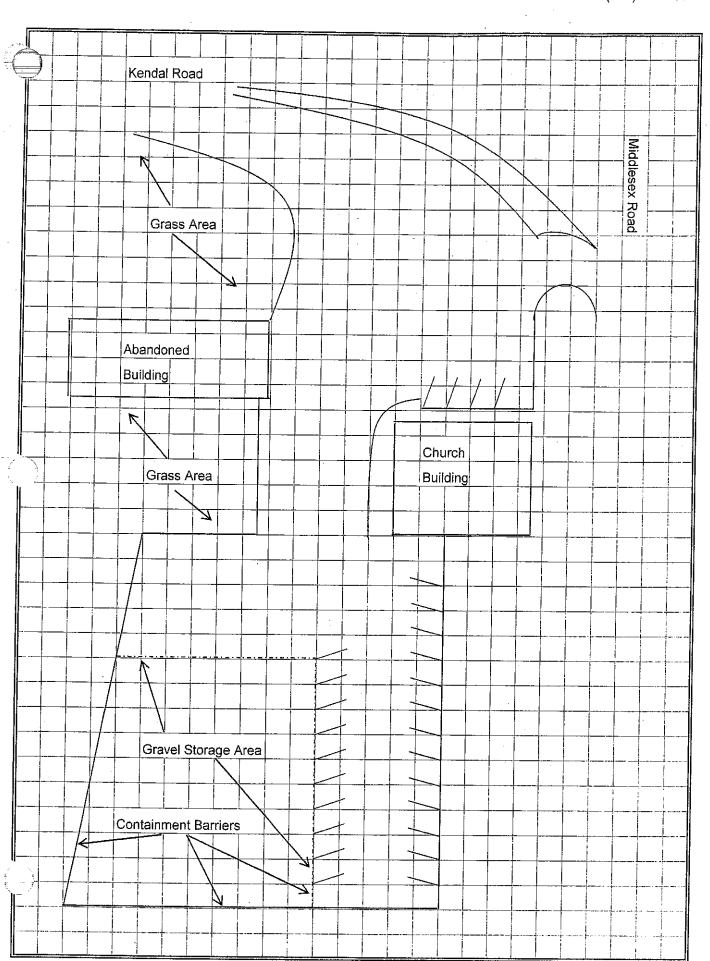
Re: MHD contract # 57892 – 2 Bridge reconstruction (t-09-001) (Steel) – Routes 113 & 3A over the Merrimack River and (t-09-002) (Steel) – Routes 113 & 3A over the B & M Railroad in the town of Tyngsborough

Dear Mr. Gilleberto:

ae S & R Corporation is currently working on the above mentioned project and would like the temporary use of the back parking lot behind the church at the corner of Kendall rd and Middlesex rd. This area would be used to stockpile gravel excavated from the project to be put back at a later date. The gravel material is planned to be reinstalled early to mid spring 2011. The parking lot will be swept clean to its original condition and no track mounted equipment will be used to unload and reload the material.

Attached are details of the gravel storage area and I could meet someone on-site if necessary Please let me know if this is acceptable, I can be reached at (978) 423-0853

Thank you Jerome Prevost Project Superintendant





TOWN OF TYNGSBOROUGH

Office of the Town Administrator of the Town 25 Bryants Lane

Tyngsborough, MA 01879

Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320

E-mail: mgilleberto@tyngsboroughma.gov

FROM:

Michael P. Gilleberto, Town Administrator

TO:

Town Department Heads, Board Chairpersons, and Committee

Chairpersons

DATE:

December 28, 2010

RE:

Egress/exit announcement

Please be advised that the Fire Department has forwarded the attached memorandum regarding egress and exit from public auditoriums.

Part "c" of the memorandum requires that "an announcement that is audible, video, or of cinematic communication...give the egress path with the location of exits to be used in case of a fire along with areas of rescue assistance for use by persons with disabilities."

While the requirement to conduct the aforementioned announcement applies only to public auditoriums (Tyngsborough Elementary School, for example), it is recommended that attendees at any public meeting be informed of their surroundings and means of egress/exit.

cc:

Board of Selectmen

Captain Pat Sands, Tyngsborough Fire Department



DEVAL L. PATRICK GOVERNOR

TIMOTHY P. MURRAY Lt. GOVERNOR

Mary Elizabeth Heffernan Secretary The Commonwealth of Massachusetts Executive Office of Public Safety and Security Department of Fire Services P.O. Box 1025 ~ State Road

> Stow, Massachusetts 01775 (978) 567~3100 Fax: (978) 567~3121

www.mass.gov/dfs



STEPHEN D. COAN STATE FIRE MARSHAL

MEMORANDUM

TO:

Heads of Fire Departments

FROM:

Stephen D. Coan

State Fire Marshal

DATE:

December 1, 2010

SUBJECT:

Recent amendment to 527 CMR 10.00

Please be advised that 527 CMR 10.00 was recently amended by the Board of Fire Prevention Regulations. This amendment, effective as of 9/3/2010, amends sections 10.13 parts (c)(d) and (e). Attached for your convenience is a copy of the referenced amendment.

Part (c) of 527 CMR 10.13 requires that in any A-1, A-2, or A-3 occupancy, which features a performance before an audience and prior to the start of such performance, that an announcement that is audible, video or of a cinematic medium communication occur. Such announcement shall give the egress path with the location of the exits to be used in case of a fire along with areas of rescue assistance for use by persons with disabilities.

Part (d) of 527 CMR 10.13 provides, as of March 1, 2011 that the owner or operator of a nightclub, dance hall, discotheque or bar, with an occupant load of 100 persons or more designate a crowd manager, for every 250 occupants, or portion thereof based on the Certificate of Inspection issued under 780 CMR.

Part (e) of 527 CMR 10.13 mandates, as of March 1, 2011 that the crowd manager, required by the provisions of part (d) above, be responsible for the completion of the Fire & Building Safety Checklist, as prescribed by the Marshal, on each day of operation prior to opening the facility to its patrons.

DFS under separate cover will provide more details on the implementation and training programs being developed in conjunction with that regulation.

Administrative Services • Division of Five Safety Huxurdous Mat.vials Response • Massachusetts Fivefighting Academy

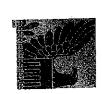
"Eventually, all things merge into one, and a river runs through it."

Norman Maclean, American author and scholar noted for his book, A River Runs Through It and Other Stories (1976)

HAPPY HOLIDAYS
AND BEST WISHES
FOR THE NEW YEAR!

Rici Brogs

Front image: Janet Lambert Moore's rendering of the landmarks throughout the Fifth District.



Rosemary Cashman
25 Bryant Ln
Tyngsboro, MA 01879-1042
Hurub Hull Hardlin Hardlin Hydllin Hardlin Hard

2011 PSC 28 PN 3: 06

TYMESIC ROUGH, MA.

Join Brandeis alumni and friends in welcoming President Frederick M. Lawrence and his wife, Kathy, to the Brandeis community.

> Monday, January 10, 2011 6:00–8:00 pm

Brandeis University Sherman Hall Hassenfeld Conference Center

> Reception: 6:00 pm Program: 6:45 pm

Please RSVP by January 5, 2011, at rsvp200@brandeis.edu or by telephone at 1-800-672-1239



Town of Tyngsborough

Folice Department 20 Westford Road Tyngsborough, Massachusetts 01879-0549



To:

Michael Gilleberto, Board of Selectmen

From:

Chief William F. Mulligan

Re:

Officers out with injuries

Date:

December 22, 2010

I have been told that two Officers will need to be out of work to have surgery during the month of January 2011.

will be out starting January 19, 2011 he will be out between 8 to 12

weeks.

will bee out starting January 27, 2011 he will be out between 4-6

weeks.

Both of these officers are assigned to the 11:00p.m. To 7:00a.m. Shift

has been out with a broken ankle we are hopeful he will be back by January 27, 2011. We should know in the near future when an return is also assigned to the 11:00p.m. To 7:00a.m. Shift

These officers being out for an extended time will add to the over-time burden the department has been dealing with.

I wanted to bring this to you as well as the Board's attention.

If you should have any questions or concerns please let me know.

40 Church Street Suite 500 Lowell, MA 01852-2686 978.458.4583

Tel: 978.458.4583

Fax: 978.937.0950

December 20, 2010

Board of Selectmen Town Hall 25 Bryants Lane Tyngsborough, MA 01879

Date of Services: November 2010

In Reference To:

Monthly Report

Legal Services

11/1/10 Telephone Conference with

T. Gay

Review Warrant Articles

- Special Town Meeting Warrant Articles

Town Administrator

Two Telephone Conferences with

M. Gilleberto

Review Documents

- All American Investment Group, LLC Chevrolet Truck

School Department Lease/Purchase

 Route 113 Relocation (Pawtucket Boulevard)
 Mass DOT Project

- Tyngsborough Sewer Commission

Town Administrator

11/2/10 Two Telephone Conferences with M. Gilleberto

> - Special Town Meeting Warrant Articles Town Administrator

Prepare Memorandum of Law - Ballot Question Board of Selectmen

Telephone Conference with M. Gilleberto Review Warrant Articles - Special Town Meeting November 16, 2010 Board of Selectmen

Telephone Conference with D. Maxson & Planning Board SBA Towers II, Inc. 180 Sherburne Avenue Cell Tower Special Permit. Planning Board

11/3/10 Telephone Conference with Atty. K. Eriksen Telephone Conference with P. Berman SBA Towers II, Inc. 180 Sherburne Avenue Cell Tower Special Permit Planning Board

11/4/10 Preliminary Review of Documents Telephone Conference with M. Gilleberto - Dracut Water Supply District Board of Selectmen

> Three Telephone Conferences with Atty. K. Eriksen Three Telephone Conferences with P. Berman & D. Maxson

SBA Towers II, Inc.
 180 Sherburne Avenue
 Cell Tower Special Permit
 Planning Board

11/4/10 Review Documents
Fax to & Two Telephone
Conferences with D. McPartlan
Research
Draft Response

- SBA Towers II, Inc.
180 Sherburne Avenue
Cell Tower Special Permit
Building Department

Telephone Conference with M. Gilleberto

- Cresta Construction Co.
- Dracut Water Supply District Town Administrator

Letter to Atty. TreanoPolice Departmentv. Tiffany Equipment Co.Police Department

Appearance in Court
Town of Tyngsborough
v. Tiffany Equipment
& Construction Corp.
Police Department

11/5/10 Telephone Conference with
M. Gilleberto
Conflict of Interest Law
Town Administrator

Telephone Conference withM. GillebertoDracut Water Supply District AgreementBoard of Selectmen 11/5/10 E-Mail to Atty. P. Nicosia

& Atty. M. Donahue

- Vaillancourt, David v. DeCarteret, et al. Planning Board & Gray Wolf Realty, LLC Superior Court MICV2008-00317-L Planning Board

11/8/10 E-Mail to D. Maxson

& Atty. K. Eriksen

- SBA Towers II, Inc. 180 Sherburne Avenue Cell Tower Special Permit Planning Board

Telephone Conference with M. Gilleberto, A. O'Neill, & E. Coughlin - Work Session

Board of Selectmen

Telephone Conference with M. Gilleberto

- Special Town Meeting Warrant Articles Town Administrator

Research & Draft Memorandum Telephone Conference with J. Gibbons

- Village at Merrimac Landing, LLC Modification Real Estate Tax Assessments

Board of Assessors

11/9/10 Letter to Atty. M. Donahue **Draft Motion for** Protective Orders

- Vaillancourt, David v. DeCarteret, et al. Planning Board & Gray Wolf Realty, LLC Superior Court MICV2008-00317-L Planning Board

11/10/10 Telephone Conference with M. Gilleberto

- Litigation
- Tyngsboro Sports Center State Special License
- Special Town Meeting Warrant Articles

Town Administrator

11/11/10 Review Correspondence Letter to T. Gay

- Club Fleur De Lis Cedar Street Obstruction Board of Selectmen

Telephone Conference with Atty. K. Eriksen

SBA Towers II, Inc.
 180 Sherburne Avenue
 Cell Tower Special Permit
 Planning Board

Prepare Letter
- Litigation Pending
Board of Selectmen

11/12/10 Telephone Conference with Atty. K. Eriksen &

D. Maxson

- SBA Towers II, Inc. 180 Sherburne Avenue Cell Tower Special Permit Planning Board

11/15/10 Telephone Conference with

- D. Maxson & Atty. K. Eriksen
- SBA Towers II, Inc.
 180 Sherburne Avenue
 Cell Tower Special Permit
 Planning Board

11/15/10 Telephone Conference with M. Gilleberto
Research M.G.L. c. 150E
Special Town Meeting
Warrant Articles
Town Administrator

11/16/10 Appearance at Deposition

Vaillancourt, David v.
 DeCarteret, et al.
 Planning Board
 & Gray Wolf Realty, LLC
 Superior Court MICV2008-00317-L
 Planning Board

Review Warrant Articles
Attend Special Town Meeting
- Special Town Meeting
November 16, 2010
Board of Selectmen

Prepare Report
- Litigation
Board of Selectmen

11/17/10 Telephone Conference with D. McPartlan
Draft Agreement & Letter
Constructive Approval
Board of Appeals

Letter to G. Clancy
- Tiffany Equipment Co.
Police Department

11/18/10 Draft Letter & Agreement
- Constructive Approval
Board of Selectmen

Telephone Conference with M. Gilleberto

- Dracut Water Supply District Licencees
- Club Fleur De Lis Cedar Street Obstruction

Town Administrator

11/18/10 Telephone Conference with

D. Crowell

- Building Code **Building Department**

Draft FCC Extension Form

SBA Towers II, Inc. 180 Sherburne Avenue Cell Tower Special Permit Planning Board

Letter to M. Gilleberto

- Town Meeting Warrant Articles Town Administrator

Review Summary Judgment

- Herr, Samuel M. v. Town of Tyngsborough Conservation Commission Superior Court MICV2010-00042

Conservation Commission

11/22/10 Telephone Conference with

D. Maxson

& Atty. K. Eriksen

SBA Towers II, Inc. 180 Sherburne Avenue Cell Tower Special Permit Planning Board

Telephone Conference with

K. Dion-Coburn

- Bounced Check
- A.M. Development Corp.

Town Treasurer

Two Telephone Conferences 11/23/10 with Atty. McNeill

- Shyjan, Michael & Joan v. Tinnirella, Ann & Town of Tyngsborough & Conservation Commission Superior Court MICV2003-04079 Conservation Commission

11/23/10 Review Documents

Maciel, Robert F.
 Zoning Violation
 Variance Conditions
 265 Pawtucket Boulevard
 Board of Appeals

Telephone Conference with
P. Berman & Atty. K. Eriksen
- SBA Towers II, Inc.
180 Sherburne Avenue
Cell Tower Special Permit
Planning Board

Review Motions

Shyjan, Michael & Joan v.
 Tinnirella, Ann
 & Town of Tyngsborough
 & Conservation Commission
 Superior Court MICV2003-04079
 Conservation Commission

Preliminary Review
of Documents
- Merrimac Landing
Condominium Association
Rubbish Collection
Board of Health

E-Mail to M. Gilleberto
- Precincts Lines Redrawn
Board of Selectmen

11/24/10 Review Documents & Decision Telephone Conference with D. McPartlan
Maciel, Robert F. Zoning Violation Variance Conditions

265 Pawtucket Boulevard Board of Appeals 11/24/10 Telephone Conference with P. Berman
E-mail to Atty. K. Eriksen & D. Maxson
SBA Towers II, Inc.
180 Sherburne Avenue
Cell Tower Special Permit Planning Board

11/26/10 Telephone Conference with Zoning Board of Appeals Office

Maciel, Robert F.
 Zoning Violation
 Variance Conditions
 265 Pawtucket Boulevard
 Planning Board

11/27/10 Review D. Maxson's Report

- SBA Towers II, Inc. 180 Sherburne Avenue Cell Tower Special Permit Planning Board

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Review Documents
Research & Draft Opinion

Merrimac Landing
 Condominium Association
 Rubbish Collection

 Board of Health

11/29/10 Three Telephone Conferences with

D. McPartlan

- Maciel, Robert F.
Zoning Violation
Variance Conditions
265 Pawtucket Boulevard

Board of Appeals

Telephone Conference with M. Gilleberto
- Thirsty's
Public Records
Board of Selectmen

11/29/10 Telephone Conference with K. Steves

 Merrimac Landing Condominium Association Rubbish Collection

Board of Health

Telephone Conference with Atty. K. Eriksen

- SBA Towers II, Inc. 180 Sherburne Avenue Cell Tower Special Permit Planning Board

Telephone Conference with
T. Gay
Review Documents
- Tyngsboro Sports Center

- Tyngsboro Sports Center State Special License Board of Selectmen

Telephone Conference with T. Gay Research & Draft Memorandum - Licenses & Minutes Board of Selectmen

11/30/10 Telephone Conference with D. McPartlan

Maciel, Robert F.
 Zoning Violation
 Variance Conditions
 265 Pawtucket Boulevard
 Board of Appeals

Letter to Zoning Board of Appeals

- Chapter 40A Seminar

Board of Appeals

Draft Shotgun Agreement & Decision Outline E-mail to Atty. K. Eriksen

SBA Towers II, Inc.
 180 Sherburne Avenue
 Cell Tower Special Permit
 Planning Board

11/30/10 Telephone Conference with M. Gilbert & A. O'Neill

- Tyngsboro Sports Center State Special License Board of Selectmen



December 7, 2010

The meeting was called to order by Chair Wennerstrom at 1. Call to Order 7:00 p.m. Those present were Burt Buchman, Herb Desrosiers, John Hickey, and Shaun McCarty.

Chair Wennerstrom announced that this meeting is being audio and video recorded.

Also present were Superintendent Ciampa, Business Administrator Joe Messina and Student Representative Katelyn O'Connor.

School Committee members, Superintendent Ciampa, Business Administrator Joe Messina, Student Representative Katelyn O'Connor and Administrative Assistant Sue Harvey introduced themselves.

Chair Wennerstrom called for the approval of the Minutes.

2. Approve the Minutes of November 17, 2010

Herb Desrosiers made a motion, seconded by Burt Buchman, to approve the Minutes of November 17, 2010.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

None at this time.

3. Correspondence A. Superintendent's Letters

None at this time.

4. Visitors' Comments and Questions

Katelyn O'Connor congratulated the following December "Students of the Month":

- Lea Kablik
- Danielle Cyr
- Abigail Robtoy

• Amy Lindenfelzer

5. Share the Success

A. December 2010

"Students of the Month"

- -Lea Kablik
- -Danielle Cyr
- -Abigail Robtoy
- -Amy Lindenfelzer

Katelyn O'Connor was congratulated for being chosen as one of the November "Students of the Month": She wasn't present at the last meeting to congratulate her.



Superintendent Ciampa noted that the Adopt a Family Program is underway. It is a unique community based effort to aid their neighbors and friends during the holidays. He gave a special thanks to Eileen Flynn.

B. Adopt a Family Program

Katelyn O'Connor noted that a Coin Drive is being held at the Middle School and High School. It is run by the National Honor Society and they go to each homeroom collecting money each day. Tomorrow is dollar day.

Superintendent Ciampa noted that families are recommended to each of the nurses at each building. Monies are raised and gifts are purchased and donated. Local food vendors also contribute and it's all delivered in a confidential manner by the Tyngsborough Police and other community members. He thanked everyone for all of their support.

Chair Wennerstrom noted that the Elementary School did 5¢, 10¢, & 25¢ days. She extended her thanks to Mrs. Flynn.

Herb Desrosiers acknowledged the changes to Policy #3.6/#5.18 – Student Parking Fees and recommended approval as a Second Reading.

6. Policy
A. Second Reading
-Policy #3.6/#5.18
Student Parking Fees

Herb Desrosiers made a motion, seconded by Burt Buchman, to approve Policy #3.6/#5.18-Student Parking Fees as a Second Reading.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

Herb Desrosiers noted that one of the requirements was to form a committee of building administrators, teachers, school committee, and parents to develop the Bullying and Intervention Plan. He asked that Kate Burnham be involved in this discussion. B. First Reading-Policy #5.24Bullying Preventionand Intervention Plan

Kate Burnham acknowledged the Table of Contents and noted that these are all of the components that were required (M.G.L. c. 71, § 370) and part of the template that was put forward by the Massachusetts Department of Education.



They also looked at other draft polices from other districts in the area. She noted that something unique to Tyngsborough is in the Appendix:

- A. Reporting Form
- B. Investigation Form
- C. Conclusion Form

They are currently working to create a document that would be a web-based document for the reporting so that any community member or parent can go to the district web page, pull it up, fill it out and submit it. Parents still have the option to contact the administrators by phone or come in to speak with them. She noted that teachers become mandated reporters. They are required to report anything they see and would also have to fill out a report.

Herb Desrosiers noted that these requirements are very important. There is a lot of training for the staff and parents can also do the training. The reporting form will be posted at every school, Central Office and on the website. The policy will also be included in the Students' Handbook.

Superintendent Ciampa noted that when Kate came on board in July, she took charge of this initiative which is quite a comprehensive document. He read the following Committee members' names:

• Jean Barrett Parent

Kate Burnham Director of Curriculum, Instruction & Assessment

Meghan Campbell Dean, TES/ECC

Deborah Carpenter Parent

Kerry Cavanaugh Administrator of Special Education

Danielle D'Amato Social Worker

Herb Desrosiers School Committee Member

Loren Day-Lewis Parent
 Kristin Ducharme Teacher
 Eileen Flynn Head Nurse

Steve Hall Director of Technology

Cheryl Laforge Teacher

Anne Lemire District Data Specialist

Sarah Lewenczuk Director of Guidance, NR Campus

Scott Middlemiss Assistant Principal, TES

• John Salmon Dean, TMS

Nancy Senecal Assistant Principal, TMS

James Tansey Teacher Michael Woodlock Dean, THS

He congratulated and thanked Ms. Burnham and all those involved. He noted that the plan has to be submitted to the State on New Year's Eve.

Chair Wennerstrom asked where parents should direct questions or comments.

Ms. Burnham noted that they can go to the district website and folks are directed to send their comments to Liz Gill in the Central Office.

Chair Wennerstrom asked about student reporting.

Ms. Burnham noted that students can fill out the form as well. She noted that they can continue to do what they are currently doing and that is to seek out a teacher, administrator or any other staff member.

Herb Desrosiers thanked the administration for doing a great job and in a very reasonable time. He noted that a lot of schools are just starting the process.

Herb Desrosiers made a motion, seconded by Burt Buchman, to approve Policy #5.24 – Bullying Prevention and Intervention Plan as a First Reading.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

Superintendent Ciampa notified the Committee of the following request for an extended leave of absence without pay:

➤ Leya Messier – D.W. Occupational Therapist Return date 2011/12 School Year 7. Personnel

A. Request for Extended Leave of Absence -Leya Messier - Return Date 2011/12 School Year

Burt Buchman made a motion, seconded by Herb Desrosiers, to approve an extended leave (without pay) for Leya Messier. Return date – 2011/12.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

Superintendent Ciampa notified the Committee of the following resignation:

➤ Ron Perrin - TMS Guidance Counselor after 11 years The Superintendent wished him well.

B. Notification of Resignation -Ron Perrin-TMS Guidance Counselor



Superintendent Ciampa acknowledged the request from SEIU 888 School Clerical Union to open up negotiations. He noted that this is the final notification from the unions.

C. Request to Open Negotiations -SEIU 888 School Clerical

Superintendent Ciampa notified the Committee of the following winter coaching appointments:

Boys Basketball

Head Coach:

Ed Carey

JV Coach:

George Mellonakos

Freshman Coach:

Brian McHale

Middle School:

Evan Donnelly

<u>Girls Basketball</u>

Head Coach:

Lynne Keenan

Asst. Coach:

Judy Metz

JV Coach:

Ken Connerty

Freshman Coach:

Carrie Laudebauche

Middle School:

Co-Coaches-Steve Nazzaro/Nicholas Nazzaro

<u>Hockey</u>

Head Coach:

Bryan Ronayne

Asst. Coach:

Ryan Gendron

Swimming

Head Coach:

Dan Shanahan

Asst. Coach:

Jennifer McGlauflin

Wrestling

Head Coach:

Jim Tansey

Asst. Coach:

Scott Moreau

Burt Buchman noted that they met about three (3) weeks ago and did receive some changes in some of the revenue projections. He noted that he did not resign from the SFPC. He did receive today a draft of a preliminary report that is being put together which talks about what the SFPC has done over the past couple of years and some of the thoughts they've had on cost savings. He believes that it will go before the Tri-Board.

Chair Wennerstrom asked if the projections were lower or higher.

Burt Buchman noted that they are higher.

D. Winter Coaching Appts:

Boys Basketball

Head: Ed Carey

JV: G. Mellonakos

Freshman: B. McHale

MS: E. Donnelly

Girls Basketball

Head: Lynne Keenan

Asst. Coach: J. Metz

JV: K. Connerty

Freshman: C. Laudebauche

MS: Co-coaches-S. Nazzaro/

N. Nazzaro

Hockey

Head: B. Ronayne

Asst. Coach: R. Gendron

Swimming

Head: D. Shanahan

Asst. Coach: J. McGlauflin

Wrestling

Head: J. Tansey

Asst. Coach: S. Moreau

8. Standing Committee Reports A. Strategic Financial Planning

Committee



Superintendent Ciampa noted that they went through line item by line item that night on the revenues to get clarification. He believes that they will get more accurate projections.

Some discussion was held.

Burt Buchman noted that he attended a Suburban Coalition meeting at which they spoke at length about healthcare benefits and pension benefits and the fact that they can no longer be sustained within this state. They need benefit reform. He noted that one item he would like to make everyone aware of is that there is \$80M - \$90M of Medicaid money that the state received, still sitting out there. It was recommended that people call their State Legislators to say that this money should be put out there for Circuit Breaker.

Chair Wennerstrom asked Mr. Buchman to send the Committee the information on Circuit Breaker.

Burt Buchman noted that the SFPC will meet on 12/14/10.

Herb Desrosiers noted that they met with some of the paraprofessional members to come up with a job description for the policy. They are hoping to have it by the end of January.

B. Policy Committee

John Hickey noted that there is nothing new to report.

C. Transportation Advisory Board

Burt Buchman noted that as previously mentioned, they received a request to open negotiations from SEIU 888 School Clerical Union. He would like to set a date for their strategizing session, then they can go to the separate groups and set up meeting dates.

D. Negotiations Committee

Chair Wennerstrom asked if they need to contact the Board of Selectmen and confirm their representative.

Superintendent Ciampa will send a letter.

John Hickey noted that in lieu of their meeting, they held a parent information night at the High School. The bulk of the meeting was a MidWach update. Tonight is a vote to E. Athletic Committee

breakdown the four (4) different leagues. He will give that breakdown at the next meeting. He noted that they did discuss the Friends of Tyngsborough High School Athletics (FOTHSA) and the need for volunteers. Scott Moreau did an update on the new concussion laws. It was a great meeting with great discussions.

Some discussion was held.

Burt Buchman noted that there is nothing new to report.

F. Technology Committee

No update from the Committee.

G. TECC Building Study

Chair Wennerstrom noted that there has been some talk that until they get updated enrollment numbers, it would be premature to discuss using that building.

Chair Wennerstrom noted that there were a few more changes to the Intra-Municipal Agreement and most of them referencing the field at TES (Bicentennial Field). She noted that the policy book makes reference to this agreement so they want to make sure that all references in their policy book coincide.

9. Unfinished BusinessA. Intra-Municipal Agreement

Herb Desrosiers made a motion, seconded by Burt Buchman, to reconsider their vote taken on 11/17/10 to approve this agreement because of the changes.

Some discussion was held.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

Herb Desrosiers noted that he is not sure that they're ready to vote on this as there are still more questions on the document. He noted that Mr. Ciampa had a question on 4.5.7. – Additional Denial of Use of the Fields

Chair Wennerstrom suggested that the Committee look over the document and do a First and Second Reading at the next meeting.

Some discussion was held.



Superintendent Ciampa noted that this is usually the time when they give the administration an outline for budget development with the understanding that House 1 will be coming out in February and they will be having a

10. New Business A. FY12 Budget Development

Tri-Board meeting soon. He noted that he is looking for direction.

Chair Wennerstrom noted that in the past few years, they have done a good job of tackling the budget early. School Committee members have divided up to work with the building administrators. They also invite representatives from the Board of Selectmen and the Finance Committee to the budget meetings. She would like to see them continue in that pattern and provide the opportunity for people to meet with the building administrators.

Herb Desrosiers asked about forming a finance sub-committee to work with the administrators and Superintendent and report back to the School Committee.

Joe Messina noted that the small groups came after the initial budget meeting in February. He gives the template out in December and the administrators usually work on them over the winter break. They then submit them back to him around January 3rd and they begin the process of rolling the budget up for the first meeting in February. He noted that if there are any comments about the template, he needs to know that soon. Do they want to see what turning over the current staff looks like as an initial base or is there another direction in which the Committee would like to go.

Chair Wennerstrom noted that she and Superintendent Ciampa met with the Town Administrator and Chair of the Board of Selectmen and discussed what they need for the budget. They discussed what the cost would be to roll over the current budget. She noted that she feels this is a good starting point (level service) on both the town side and school side.

Some discussion was held.



Chair Wennerstrom noted that they discussed the Capital Asset Plan last Friday. They were given a number in terms of what they have anticipated and that number is \$200,000 (town wide) and does not include the debt service. She noted that they need to revisit items on the Capital Asset Plan and prioritize the items.

B. FY11 Capital Asset Plan

Superintendent Ciampa noted that Jeff Hunt has that information and they will get that number to him.

Chair Wennerstrom noted that she has spoken with Mr. Hunt and he is aware of that number.

Joe Messina noted that Special Education Administrator Kerry Cavanaugh met with the members of SEPAC last week and as they did last year, they offered a donation of \$900 to Ms. Cavanaugh and her special education department (\$300 per school).

C. SEPAC Donation (\$900)

Shaun McCarty made a motion, seconded by John Hickey, to accept the SEPAC donation of \$900.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

Superintendent Ciampa noted that they use the law firm of Sullivan, Nuttall, MacAvoy & Lyons, P.C. for their special education matters. They have worked with Catherine Lyons who has represented them in special education issues and she has been a great support to him. He noted that she has opened the law offices of Lyons and Rogers L.L.C. and he recommended that they terminate Sullivan, Nuttall, MacAvoy, P.C. and retain Lyons & Rogers L.L.C. as the law firm to represent them (special education matters). He noted that they must respond to the current law firm by signing the letter selecting the law firm they wish to use.

D. Letter from Sullivan, Nuttall, MacAvoy & Lyons (Special Ed.)

Chair Wennerstrom noted that she would like to hear from Kerry Cavanaugh. She noted that she doesn't have to come before the Committee she can just send a letter of recommendation.

Herb Desrosiers made a motion, to terminate the services of Sullivan, Nuttall, MacAvoy & Lyons, P.C., retain Lyons & Rogers



L.L.C as the law firm to represent them in Special Education matters and responds to the letter dated November 20, 2010.

No second to the motion was made. They will move this to the December 21st meeting.

Bill Schedules were signed.

11. Finance
A. Signing of Bills

Joe Messina read the Warrants that were signed tonight:

TAT		<i>O</i> .
Warrant #	Account	<u>Amount</u>
11-110	School Committee Budget	\$224,295.59
11-111	School Committee Budget	\$ 1,310.00
11-112	Preschool Revolving Account	\$ 29.85
11-113	User Fees Revolving Account	\$ 11,519.90
11-114	Staff Daycare Revolving Account	\$ 270.36
11-115	School Donations Revolving Account	\$ 3,284.50
11-116	Athletic Revolving Account	\$ 1,204.91
11-117	School Choice Revolving Account	\$ 2,313.99
11-118	Community/Adult Ed. Revolving Account	\$ 275.95
11-119	Student (Agency) Account	\$ 14,372.31
11-120	ARRA-IDEA Grant	\$ 36,893.00

Burt Buchman made a motion, seconded by Herb Desrosiers, to accept the Warrant Articles.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

Joe Messina noted that they are locked into this heating season which is the final of the current natural gas supply choices with Hess Corporation through PowerOptions. They're at \$8.64 per decatherm. On Friday, PowerOptions had a meeting in Boston (he could not attend). On Thursday night, he received prices for the new four (4) year contract that is starting next heating season and extended for four (4) years beyond that time. He passed out to the Committee Friday's quote numbers. He noted that there are four (4) different pricing options:

- > \$7.73 for 12 months
- > \$8.04 for 24 months
- \$8.20 for 36 months
- > \$8.35 for 48 months

These are great prices compared to the prices we're paying now (\$8.64) and last year's price (\$9.00). He is looking for the

B. Natural Gas Pricing



Committee to allow him to lock into one of the options. He recommended the 36 months option.

John Hickey made a motion, seconded by Shaun McCarty, to enter into a three (3) year agreement with Hess Corporation through PowerOptions for 36 months.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain None at this time.

Joe Messina noted that he attended a Special Education Parent Advisory Council (SEPAC) meeting last week and thanked Rachel Leo and Julie Williams. Rachel Leo called to his attention how SEPAC funds are handled. The regulations are saying that they should not have a checking account on their own. All of these funds should be going through the Town Treasurer via the School Committee. They now will be turning the funds over to him and he will set up a SEPAC account different from the SEPAC donation account. Bills will come to him and he will bring them to the School Committee for signing.

John Hickey congratulated the December "Students of the Month" and thanked Mrs. Flynn and helpers for the Adopt a Family Program. He thanked SEPAC for their gift donation and Joe Messina for the natural gas pricing. He thanked Mr. Buchman and Superintendent Ciampa for attending the Suburban Coalition meetings and the Superintendent, Mike Flanagan and Scott Moreau for their athletic presentation. He thanked Kate Burnham and others for their work on the Bullying Prevention and Intervention Plan and the Highway Department for the Lighting of the Trees event. He also thanked the Girls Scout Troop 6701 and Troop 7174 for their caroling.

Burt Buchman congratulated the December "Students of the Month". He noted that the Adopt a Family Program is a wonderful community effort and he thanked Mrs. Flynn. He thanked those who worked on the Bullying Prevention and Intervention Plan and Joe Messina for his work on the natural gas pricing.

- 12. Visitors' Comments and Questions
- 13. School Committee Discussion



Katelyn O'Connor noted the following events:

- Falls Sports Awards (12/8/10)
- Semi-formal (this weekend)
- Progress Reports (12/17/10)

Superintendent Ciampa noted that he has been at the Elementary School recently and noticed that they're getting backed up. Students should be dropped off at the appropriate stops. He noted that he hopes that the students have a great Semi-Formal and tomorrow night is Caroling at Carraba's.

Chair Wennerstrom noted that they did meet with the Town Administrator and the Board of Selectmen Chair and some dates were discussed for the Tri-Board meeting. They are looking to meet on 12/20/10. She thanked the Town Administrator and Chair of the Board of Selectmen for their time. They are on the same page as far as starting out with a level service budget. It was encouraging to talk with them about new revenue sources. They cannot continue to rely on the state. She echoed the Superintendent's remarks about the traffic and drop off at TES. She urged folks to be cooperative.

8:35 p.m.

John Hickey made a motion, seconded by Shaun McCarty, to go 14. Executive Session into Executive Session for the purpose of discussing personnel matters, discussion of which in an open session will have a detrimental effect to the School Committee's strategic or negotiation position, and come out only to adjourn the open meeting.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

Respectfully submitted,

Herb Desrosiers, Secretary

APPROVED: December 21, 2010

TYNGSBOROUGH SCHOOL DISTRICT

SCHOOL COMMITTEE MEETING

EXECUTIVE SESSION

DECEMBER 7, 2010

8:35 p.m.

John Hickey made a motion, seconded by Shaun McCarty, to go into Executive Session for the purpose of discussing personnel issues, discussion of which in an open session will have a detrimental effect to the School Committee's strategic or negotiation position, and come out only to adjourn the open meeting.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

-Mrs. Wennerstrom

-Yea

-Mr. Hickey

-Yea

-Mr. Buchman

-Yea

-Mr. McCarty

-Yea

-Mr. Desrosiers

-Yea

The Committee discussed personnel issues.

On a motion made by Burt Buchman, seconded by John Hickey, it was voted to adjourn the Executive Session at 9:37 p.m. and come out only to adjourn the open meeting.

VOTE: UNANIMOUS 5, Yea 0, Nay 0, Abstain

-Mrs. Wennerstrom

-Yea

-Mr. Hickey

-Yea

-Mr. Buchman

-Yea

-Mr. Desrosiers

-Mr. McCarty

-Yea

-Yea

APPROVED: December 21, 2010

Laura Mailander Barry Hallenborg 2 Frost Road Tyngsboro, MA 01879

Thomas Gray
Director, Right of Way Bureau
Massachusetts Highway Department
10 Park Plaza – Room 6160
Boston, MA 02116-3973

Mr. Gray:

Michael Gilleberto,

We wanted to make you aware

of the lack of communication

from MASSDOT regarding the

project and our property. This

is a copy of the letter we

sent in October. If there is

anything you can do to help,

it would be most appreciated.

Thank you

Y 9111

We are writing in regard to the Pawtucket Boulevard relocation project located in Tyngsboro. We bought our home in October 2007 and were not informed of any projects until a surveyor knocked on our door to ask a couple of questions. Prior to that first encounter, we had no knowledge of the project. We still do not feel that anyone authorized has taken the time to fully discuss the detailed impact on our property. Everything has been discussed in generalities.

We have several concerns regarding the relocation of our driveway and the full impact on our property value:

1. First and foremost, the layout of our drive-way is not to our satisfaction. We understand that it will be exiting on a cul-de-sac on Parker Lane and not Frost Road. However, the shape and placement of the driveway on our property needs to be lined up with the garage (not so close to the house, since this will become the front of our house), then curve toward Parker Lane. Secondly, since the driveway will now be 120 feet long, we will need a turnaround. We have many other questions regarding this subject including: How many trees will be removed? Will you fill part of the yard, since it slopes, before you put in the new driveway? Will you relocate our lamppost? What type of landscaping? Etc.

Within the temporary easement, lies our pool, deck, electrical supply, some landscaping, and privacy fence. It was listed in our settlement as a removal. We expect all of the above to be replaced in a new appropriate location on our property. (No one wants a pool in their front yard.)

- 3. Not knowing the details of the project makes it difficult to see how our privacy will be affected fully. Our property has natural cover on all four sides except where the driveway meets Frost Road. In full foliage, we cannot see any traffic, and traffic cannot see us. We expect our privacy to be restored.
- 4. Lastly, and most importantly, is our home's frontage. Our Victorian style house very clearly faces Frost Road. Since there will be a guard rail, and we will not have access to Frost Road, for safety reasons, our address will be changing to 2 Parker Lane. This greatly affects the value of our property. We will be consulting an architect and contractor to redesign the side of our home to look like the front in order to restore the proper property value that will be decreased by this project.

We have accepted the \$7200 for the taking of our square footage and for the temporary easement on a "pro-tanto" basis.

We request a meeting with your offices to discuss mutually amicable measures necessary to mitigate market value and intrinsic value impacts on my property caused by the unilateral reorientation of its frontage.

Please contact us as soon as possible so that we may arrange the meeting.

Sincerely,

Laura Mailander

Barry Hallenborg

CC. State Representative, Colleen barry CC. Building Commissioner, Paul Welcome CC. Conservation, Director, Matthew Marro

yngsborough Police Department

Selectman's Monthly Status Report

Report Start Date: De 20		rt End Date: December 31, Chief William F. Mulligan
Short-Term Action Items	Status	Outcomes/Issues
Dispatch Grant 2011	Complete	
		The grant money was transferred to the patrol division
Reserve Officer Testing	On Going	We have three new reserve officers in training. We tested two
		new candidates both of whom are full time academy trained. The
		passed the entire test process we are doing background investigation on them now. We continue to have the reserves
		working a volunteer shift once a month. We should see a 1000
		hours of volunteer hours at the end of the year.
Crime Information	On Going	We have continued to have cars being broken into; we have been
		very busy with domestic violence cases. Thefts of plows have
		been ongoing.
Officer Injured	On Going	We continue to have officers out is out with a broker
	•	ankle e will be going out for surger
•		also has to be out of work for surgery swaiting
		until they return he also needs to have surgery done. This will create an over-time issue.
Fire Arms Training	State Mandated	I have been advised that the Mass Police Training Council has
	Increase in	increased the annual firearms qualification standard for each
	training	year. I have been working with Sgt. Chris Chronopoulos we
		should be able to hold the cost of this training down, from the
		estimated \$10,000.00 we will attempt to do this while officers are
Improvements to the Deller	10/	on duty.
Improvements to the Police Building		MIIA Loss Control has recommended that I do other improvement
Danding	progress	to the building to protect personnel I will be working towards those recommendations. The cost for this will come from the
		building budget. Officer Walsh has stepped up to help with this
		project. He will be replacing old tiles with new tiles on the floor in
		the down stairs hall way this will save the town thousands of
		dollars on this job.
Regional Dispatch Report	Contract	NMCOG has terminated the contract with Winbourne & Costa.
	Terminated	They will be looking for a new consultant to complete a feasibility
Long-Term Goals	Progress	study by June 30, 2011
State Accreditation	On going project	
	going project	This is an on going project.
Neighbor to Neighbor	On going	I will be writing about all the work the officers in the department
		have done to improve the police building.
Community Service	Complete	Adopt a family program; we spend an entire day delivering gifts
		and food to local residences. We had both Full time and Part time
		officers working on this great work by all.
Janny to New Year to		
appy to New Year to you a	H	



Town of Tyngsborough

Planning Board

25 Bryants Lane
Tyngsborough, Massachusetts 01879-1003 2011 1871 - 3
Office: (978) 649-2300, ext. 115

Fax: (978) 649-2301

AGENDA

January 6, 2011 Community Room 7:00pm

Open Meeting

- 1. 54R Locust Ave. a/k/a, 54-56 Locust Avenue Special Permit submission for Cell Tower Co-Location: STC Six Company & LightSquared LP.
- 2. 180 Sherburne Ave. SBA Towers for T-Mobile, USA Special Permit Application for the proposed installation of a ~160ft. monopole style cell tower Continued from December 16, 2010.
- 3. ANR Application 15 Davis Street (Map26A, Parcel 167): Robert Lord
- 4. Westford Road Development:
 - A. Covenant & Development Agreement
 - B. Westford Road Development Project Update

DISCUSSION

ENGINEER REPORTS

ADMINISTRATIVE

- 1. Approval of Minutes: December 16, 2010
- 2. Sign Bills & Forms
- 3. New Business



Council on Aging

News & Tyngs

COUNCIL ON AGING - SENIOR CENTER

180 Lakeview Avenue • Tyngsborough, MA 01879

Mail Address: PO BOX 94

Phone: 978-649-9211 • Fax: 978-649-9533

JANUARY 2011

Email: breynolds@tyngsboroughma.gov

Happy New Year from the COA members and staff,

Thanks for making our holiday joyful by participating in our events and programs. Having all of you around us makes our holidays fulfilling.

CENTER open on January 3rd. We are closed December 31 for the New Year's holiday. We will be open Monday, January 3rd.

New Program: Line Dance with Bernier Mercier, more details on page 2. Thanks to the Highway Department there will be FREE rides or Medical and food shopping read the details on page 3.

If you have eaten too much during the holiday season let us help you get back in shape. You can attend one of our four exercise programs, yoga (exercise for the mind), regular exercise, Tai Chi and Bone Builders. We also have Wii bowling here at the Center every Thursday morning. Our Exercise Classes are FREE for the month of January. There is 2 openings right now for our Bone Builders program.

The Center will now be open five days a week from 8:00 to 4:00, with the exception of New Year's Eve day, and January 17 for Martin Luther King day.

We hope to have a new podiatrist by February, look for info. in the February newsletter. We are also looking to schedule a new paint instructor. All paint students will be notified when paint classes will start back up.

Warmly, SIGNATURE

Newsletter Index

Page 1- Director's Message
Page 2,3,4 - Programs/activities/Events
and health information
Page 5 - Calendar

Page 6-Regular Programs/Bus Trips
Page 7- Important Info./Upcoming Programs
Page 8- Assistance information/Center closing

STAFF

Barbara Reynolds - Director
Tracy Pecora - Secretary
Midge Poirier - Meal Site Coordinator
Judy Finan- Meal Site Coordinator
Tom Tiano - Custodian
Part-Time Bus Drivers
Louanne Brady
Phil Molleur

COUNCIL ON AGING

Charlene Muscato – Chairperson
Carol Doig – Vice Chair
Patricia Wagner- Secretary
Michael Knight
Phillip O'Brien
Robert McCarthy
George Geisenhainer
Roger Downing
Midge Poirier
Claire Downing
Pat Quinn

CORE SERVICES

Bus Transportation
Daily Meals
Exercise Classes
Health Programs
Art Class

Senior Center Hours of Operation:

8:00-3:30 Fridays 8:00-1:00 Bus 8:15-3:00

SPECIAL PROGRAMS/EVENTS JANUARY

Regular weekly programs are now listed on page 6 and in the calendar

The staff wishes everyone a SAFE, HEALTHY NEW YEAR.

The Center is closed January 17th for Martin Luther King day.

NEW PROGRAM

LINE DANCING with Bernie Mercier. Friday, January 7, 14, 21, 28 9:30-10:30

We have received many requests to have this class. We'll be waiting for you to join us for this new program. Lots of fun and great exercise for body and mind. Beginners and experienced dancers welcome. Fee \$4.00 per class.

AFTER THE HOLIDAY CELEBRATION AND REGIFTING SWAP PARTY Wednesday, January 5th from 10:30 until it ends

There will be goodies in the morning, with hot apple cider, free pizza lunch, tons of fun, heaps of laughs and presents for those who bring one. If you received a gift that you would like to regift bring it wrapped. For all those who choose to participate in the gift swap by bringing a gift we will do our own version of a Yankee swap. Bring a clean joke or a New Year's resolution to share and add to the fun!

ANNUAL FAIR recap.

January 19, Wednesday 12:00—2:00

The purpose, success and outcome of the Annual Fair will be discussed. The fair has been taking on a life of its own. We're open to new ideas to make this already successful event even better. Come and join the conversation.

New program—Fee \$1.00

Is your stuff cluttering your space?

Monday, January 24 10:30 to 11:30

Come and learn some techniques to weeding out things that are cluttering your space. In order to participate you must bring one item you not longer need or pay \$1.00.

Mahjong CONTINUING

January— Every Thursday 12:00 - 2:00

Jane Cantor, a volunteer from Chelmsford, will lead those interested in learning the game of Mahjong (American Version). This complicated game takes a while to learn. If you want to exercise your brain this is the game for you. This is a good way to pass the winter months.

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Call 800-732-8070

SPECIAL PROGRAMS/EVENTS FOR JANUARY

ONCE A MONTH HEALTH AND WELL BEING PROGRAMS

- WELLNESS CLINIC Tuesday, January 4, 10:30-12:00 Blood Pressure Readings, weight checks and medication reviews.
- SHINE Tuesday, January 11 10:00-11:30 A Shine Counselor will be on hand to help with insurance questions. Call or come to schedule an appointment.
- PODIATRIST No Podiatrist appointment until further notice.
- HEARING TEST Wed, Jan 19th Call or come in for an appointment. 10:00-11:30

DAY OF BEAUTY

Thursday, January 20, P/U starts at 9:30

Call Tracy @ 978-649-9211 or sign up at the Senior Center

EXERCISE PROGRAM IN JANUARY

The Senior Center is offering FREE Exercise Classes for the month of January. You just need to sign up and show up. You can sign up the day of the class and swipe in. Classes are Tuesdays from 10:00-11:00 and Thursdays from 12:30-1:30.

YOGA CLASS

Wednesdays @ 9:00

GERMAN CLASS

Every Thursday at 10:00 Instructor: Mary Nelson

NOTICE TO BUS RIDERS FREE RIDES

There will be free rides for clients for medical appointments and food shopping starting in January and continuing for several months thereafter.

Thanks to the efforts of the staff at the Highway Department for their own fundraising effort and for reaching out to others to help. Let them know how much you appreciate their efforts. They have done this for many years.

BOOK GROUP

Wednesday, January 26 1:00

PAINT CLASSES -Possibly Starting January. Will be on Friday 12:00—1:30

FALL/WINTER PROGRAMS

- Bone Builders program continues: Wed. 10:00-11:00 & Fri. 8:30-9:30
 - · Pokeno card game Monday and Wednesday morning.
 - Wii Bowling every Thursday morning at 10:00-11:00
 - Mahjong every Thursday 12:00-2:00
 - Line Dance every Friday 9:30-10:30

BITS AND PIECES

CTI'S RSVP BONE BUILDERS PROGRAM MAKES A DIFFERENCE IN THE LIVES OF LOCAL SENIORS

Six months ago, senior citizens at the Tyngsborough Senior Center began a new approach to taking charge of their own health, by participating in a FREE osteoporosis prevention fitness program called "RSVP Bone Builders". This FREE program, coordinated by Community Teamwork Inc.'s, is aimed at improving fitness, strength and balance to reduce the risks of fall injuries. December marked the six month anniversary for the Bone Builders program and Pat O'Neill and Linda Martin were recognized for their perfect attendance.

Bone Builders meets twice a week for an hour of exercise and education focused on increasing bone density, improving balance, and better understanding osteoporosis. The exercise and osteoporosis education curriculum used was developed by Tufts University researchers, and is designed to be taught by trained volunteer leaders from the RSVP program, all of whom are 55 or older. Each local group has two or three co-leaders, so there is always someone to lead the classes.

Tyngsborough classes are led by Lynda Gambale, Catherine Black and Bernie Mercier, three of the 25 volunteers in Greater Lowell who have been trained as leaders.

There are now have **2 openings** in the program and you can sign up or just show up at the Senior Center. Free classes are Wednesdays 10:00-11:00 & Fridays 8:30-9:30.

SENIOR POWER TEE SHIRTS FOR SALE \$10.00

Fundraiser: The Friends Group is selling bright orange Tee Shirts that have Tyngsborough Council on Aging imprinted on the front and SENIOR POWER on the back.

If you have mobility restrictions and it is difficult for you to get on and off the elder bus or to wait to be picked up, check with your Medicaid or Mass Health provider to get vouchers for other means of transportation.

If you having trouble managing your budget and making funds stretch to the end of the month, call ESMV and ask to be connected with a financial counselor. 1-800-892-0890

NEWS FROM THE FRIENDS OF THE COA

July 1 started a new fiscal year for membership to the Friends Group. Peggy Gramer, Treasurer, will be at the Center on the second Tuesday of the month from 10:00-12:00 to accept Friends' membership dues, donations, and memorials. Barbara or Tracy will take donations or memberships if Peggy is unable to be there.

SPECIAL DRAWING OF THE MONTH

There will be a Holiday Basket Raffle to be drawn on January 18th. Lots of great goodies inside!

SIGN UP FOR YOUR SAND CAN

Last year we filled coffee cans with sand for folks to take for their icy cars or steps. It was a huge success. Sign up at the Center so we'll know how many to get ready.

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WEDNESDAY	9:00Yoga 10:00Bone Builders 10:30Pokeno 10:30After Holiday Celebration	9:00Yoga 10:00Bone Builders 10:00Walmart 10:30Pokeno 11:30Lunch	9:00Yoga 10:00Bone Builders 10:00Hearing Test 10:30Pokeno 11:30Lunch	9:00Yoga 10:00Bone Builders 10:30Pokeno 11:30Lunch 1:00Book Group	a n u 2011	THE AUDIENCE! ARE YOU IN THE SPOTLIGHT? Call to place your ad today.
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MONDAY	3 10:30Pokeno 11:30Lunch - Meatloaf 1:00Needle Art	10:30Pokeno 11:30Lunch 1:00Needle Art	Center Closed Martin Luther King Day	24 10:30Pokeno 11:30Lunch 1:00Needle Art	31 10:30Pokeno 11:30Lunch 1:00Needle Art	Radius Northwood Short Term Rehabilitation Sub-acute Care Dementia Specific Care Unit Long Term Care Respite or Hospice Care

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KNOW THE WARNING SIGNS

Stroke is the third leading cause of death in the U.S. behind heart disease and all forms of cancer. Stroke is a leading cause of serious, longterm disability. However, about 6 million stroke survivors are alive today. Stroke is a medical emergency, so know the warning signs:

*Sudden numbness or weakness of the face, arm or leg, especially on one side of the body. *Sudden confusion, trouble speaking or under-

standing.

*Sudden trouble seeing in one or both eyes.

*Sudden trouble walking, dizziness, loss of balance or coordination.

*Sudden, severe headache with no known cause.

All stroke symptoms are sudden and if you or someone with you has any of these signs, do not delay! Call 9-1-1 immediately!

LOWER YOUR STROKE RISK

A healthy lifestyle plays a big part in decreasing disability and death from stroke. Here are steps you can take:

*Do not smoke.

*Improve your eating habits.

*Be physically active.

*Take medications as directed.

*Get your blood pressure, cholesterol and blood sugar checked, and control it if it is high.

*Reach and maintain a healthy weight.

*Decrease your stress level.

*Have regular medical checkups.

NOTICE TO BUS RIDERS AND LUNCH PEOPLE

Note to our bus riders and to those who come for lunch: Please call two days in advance before noon to book for a meal, and to book for transportation. Exception for the bus -if you see the doctor and you need to have more medical attention the next day, that would be an exception. We do not like to refuse anyone, so call early to make sure you have a ride for your appointment.

REGULAR PROGRAMS AT THE CENTER IN JANUARY

DUE TO EVENTS AND HOLIDAYS PLEASE CHECK PROGRAM DATES CAREFULLY

	MondayPokeno				
	Pokeno Needle Art—not on January 17 Tuesday SHINF	10:30-11:30			
	SHINE Exercise Bingo Wednesday Yoga	10:00-11:30 10:15-11:15			
]	Bone Builders Pokeno Book Group Thursday	9:00-10:00 10:00-11:00 10:30-11:30			
	German Class Wii Bowling Mahjong Exercise Friday	9:00-10:00 10:00-11:30 10:30-11:30 12:00 -2:00			
	Line Dancing	:30-9:30 :30-9:30			

Lunch is served promptly @ 11:30 everyday - must make reservations 2 days in advance BEFORE NOON \$2.00 for sentors & \$4.50 for non-sentors

Call 2 days in advance to schedule the bus. **ELDER BUS TRIPS**

TIMES: Monday -Thursday 8:15 to 3:00 Friday 8:15 to 12:30

TRIPS OF THE MONTH -

Food Shopping & Wal-Mart: Due to Holidays days and time will change, refer to calendar.

Wal-Mart: 2 hour trip on the 2nd Wednesday of the month with time for lunch. Pick-ups start at 10:00. Bus will return at 1:00.

Day of Beauty - Thurs. January 20 - Pick up starts at 9:30/bus returns 12:30.

Daily Transportation Schedule:

Senior Center Daily,

Medical Visits: schedule for Mon, Wed, or Thurs.

NO MEDICAL Tuesday or Friday.

In-Town 1.00 each way - Out of Town 1.50 each way

ATTENTION FOOD SHOPPERS:

For safety purposes shoppers should have only 5 brown paper bags. Drivers are not required to carry bags. Ask store to keep bags light for your own safety.

IMPORTANT INFORMATION

DISPOSABLE PROTECTIVE UNDER-GARMENTS:

The Center has a supply of disposable undergarments in all sizes. Distribution handled discreetly. Please call and speak with Barbara. 978-649-9211

APPLICATIONS AVAILABLE

- Elderly Housing
- Food Stamps

Call 978-649-9211 for more information.

FREE MEDICAL EQUIPMENT

If you or anyone you know needs a walker, shower chair, tub chair, toilet seat raisers or other small medical equipment, call the Center @ 987-649-9211. Insurance does not pay for tub chairs.

CONFIDENTIAL HELP

If you do not have enough food to eat - don't wait. We want to help you so let us know your needs. Call Barbara 978-649-9211

WELLNESS CLINIC at ELDERLY HOUSING

Nancy Harding, RN, from the *Visiting Nurse Association of Greater Lowell* will be available to do blood pressure readings, weight checks, and medication reviews at:

- Red Pines Elderly Housing, the third Tuesday of each month from 8:30 9:30.
- Brinley Terrace Elderly Housing, the fourth Tuesday of each month 8:30-10:00

DONATIONS NEEDED

- 1/8" RIBBON
- CURLING RIBBON
- FANCY NAPKINS & PLATES
- COLORED PAPER

UP COMING PROGRAMS FEBRUARY

GAME DAY- Wednesday, February 2,

10:30—2:30 Come and join the fun. We are planning our own version of several TV game shows. We need participants. The games we are hoping to offer are: Who Wants to be a Millionaire; Wheel of Fortune and Price is Right or some other game.

Mahjong - Thursday's in February 12:00—2:00

Jane Cantor will be teaching the game for January and February, so if you are interested at all come and let us know. This is the last month we will have an outside instructor. The group will self teach starting in March.

ANNUAL FANCY HAT CONTEST

February 14, Monday 11:00 right before lunch. Put you creativity to work or dig something out of storage. There will be a prize for the most outrageous hat and a prize for the most creative hat. Come join the fun

VALENTINE LUNCHEON February 14, Monday 11:30

Pot Luck lunch. Please sign up to attend and if name a dish you will bring.

Seniors to the Symphony

Let Barbara know if you are interested in attending a Seniors to the Symphony program in March at the Nashua Symphony.

Hearing Test

Wednesday, March 16

10:00—11:30 Free Hearing test with one of the specialist from Miracle Ear. Call to schedule an appointment.

MEETINGS IN JANUARY

- Senior Club—January @1:00
- COA Meeting January 18th

Elder services of the Merrimack Valley, Inc. 360 Merrimack Street, Lawrence, MA 01843 1-800-892-0890 978-683-7747

HELP PAYING WINTER HEATING BILLS

If you need help paying your winter heating bills, contact the agencies listed below that serve your area. Eligible homeowners and renters may receive financial assistance to pay part of their winter heating costs. Call now to see of you qualify.

Greater Lowell

Community Teamwork, Inc. Energy Program 978-459-6161 Salvation Army Good Neighbor Energy 978-458-3396 ext. 229

All Residents of Massachusetts

Citizen Energy Corporation Oil Heat Program 877-563-4645

Citizens Energy Corporation Distrigas Heat Assistance 866-427-9918 (natural gas)

<u>UTILITY COMPANIES - SHUTOFF PROTECTION FOR SENIORS AND LOW - INCOME DISCOUNT RATES</u> <u>Shut off Protection for Seniors</u>

Massachusetts law prevents utility companies from shutting off service to people in special situations. During the winter months, generally November 15 through March 15, utility companies cannot shut off service to household in which all members are 65 years of age or older if they would be left without heat. However, eligible customer must contact their utility company to register for this protection.

Utility Discount Rate

Massachusetts law requires regulated utility companies to offer discounted rates to residential customers who receive public assistance benefits and who meet income limits. People who receive benefits from certain public assistance programs are automatically enrolled in the utility company's discount program. If you qualify and are not automatically enrolled, you can contact your utility company directly and request an application.

National Grid (formerly Keyspan) 1-800-539-7726

Shutoff Protection for Seniors- All house hold members must be 65 years/older

Account holder or social worker can complete the form and fax it to 781-290-4713.

Copies of the form are in the Elders Services' Resource Room.

Discount Rate

Forms are available in the Elder Service's Resource Room. Completed forms should be mailed to the Brooklyn, NY address listed on the bottom of the form.

National Grid (Massachusetts Electric) 1-800-322-3223

Shutoff Protection for Seniors - All household members must be 65 years/older

Account holder or social worker can call the company and verbally provide the information and the account can be "coded" over the phone.

Discount Rate

Forms are available in the Elder Services' Resource Room. Completed forms should be mailed to the Northborough, MA address listed on the bottom of the form.

SNOW CLOSING FOR THE SENIOR CENTER

- No Meal Program at Tyngsborough COA IF Lawrence Voc. Has no school
 - If there is no school in Tyngsborough the Elder Bus WILL NOT RUN
 - If Town Hall is closed, the Senior Center is closed.
 - If you aren't sure, call the Center before coming.

Tyngsborough Public Schools



Donald P. Ciampa Superintendent of Schools (978) 649-7488

2011 JAN - 9 FM 1: 21

Kerry Cavanaugh Administrator of Special Education (978) 649-8914 Kathleen Burnham Director of Curriculum (978) 649-7488 July, Moseph Messina School Business Administrator (978) 649-7488

December 29, 2010

Mr. Michael Gilleberto Town Administrator 25 Bryants Lane Tyngsborough, MA 01879

Dear Michael:

In the past few weeks, Tyngsborough Public Schools has experienced unforeseen increases in population, due to new housing developments. The School Committee made a motion that effective November 17, 2010; any future housing developments of fifteen (15) or more units, to be built in the Town of Tyngsborough, must conduct an impact study on the development's effect on the Tyngsborough Public School System. Be it further requested that the Superintendent of Schools must sign off on the impact study. Therefore, on behalf of the Tyngsborough School Committee, I am requesting that the Town of Tyngsborough conduct an impact study on any future housing developments of fifteen (15) or more units. It is our hope that collaboration with this office, will better serve the Town and all of its infrastructure and public service departments.

I look forward to discussing this matter with you in the near future. I am sure that it may involve some changes in protocols and perhaps charters/bylaws.

<u>Thank you,</u>

Donald P. Ciampa

Superintendent of Schools

Cc: Ashley O'Neill, Board of Selectmen Chair Robb Kydd, Zoning Board Chair



Tyngsborough Public Schools



Office of the Town Administrator 25 Bryants Lane

Tyngsborough, MA 01879 Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320 E-mail: mgilleberto@tyngsboroughma.gov

TO:

Board of Selectmen

FROM:

Michael P. Gilleberto, Town Administrator (MF

DATE:

December 30, 2010

SUBJECT:

Town Administrator's Report for the weeks ending December 10, 17, 24,

and 31

Response to Selectmen's Requests

Reports from Town Counsel and the Building Commissioner regarding Tyngsboro Sports Center are in your packets.

• I am attempting to re-schedule the Director and Counsel for the Dracut Water Supply District for the January 10th meeting.

Budget Status

Per the vote of the Selectmen of December 20, I am working with the Finance Committee's designee (Rob Mullin) to proceed with the FY 2012 budget process.

The Capital Asset Management Committee has begun the process for updating the Five Year Capital Plan. We await the school request and are also evaluating how much money might be available for expenditure this FY or next.

Departmental Information

- Attached please a copy of an offer letter for Kristine Hartwell for the position of Highway Clerk
- With the recent generous gift of a flat screen television to the Senior Center, we now have a surplus television. A request has gone out to departments to see if this property can be utilized elsewhere. Otherwise, we will surplus it off to the highest bidder via an advertisement on Channel 8 and the Town website.

Other

- In your correspondence, please refer to a request from S and R corporation requesting access to Town property for a construction easement. They have submitted a release and proof of insurance, which is under review by Town
- Attached please find a copy of my letter responding to a request for information submitted by Mr. Jeffrey Carlsen.



- Attached please find a copy of a memorandum I sent out to the Finance Committee and the School Committee concerning the newly-formed Insurance Committee.
- Attached please find a copy of a letter I sent to the Assessors clarifying the intention of the Selectmen and Town meeting restoring employee hours.
- Attached please find a letter to the Inspector general delegating purchasing authority for the Public Schools. Mr. Messina is a certified Purchasing Agent.
- Attached please find a copy of correspondence with a resident concerning a damaged mailbox. The Highway Department addressed the issue the next day.
- Attached please find a copy of a memorandum I sent to the Cultural Council to kick-off their review. They are schedule to meet on January 5th.
- Attached please find a copy of a letter in response to a resident letter concerning the Pawtucket Boulevard Realignment Project.
- Attached please find a copy of a letter sent out to department heads and boards concerning egress/exit from public buildings.
- Copies of letters to open negotiations with SEIU unions for FY 2012 are attached.
 While the Evergreen Clause in all likelihood negates the need for these letters, they were sent to reserve our rights.
- Attached please find a copy of a letter replying to a request from resident of Pennsylvania.



Office of the Town Administrator 25 Bryants Lane Tyngsborough, MA 01879

Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320 E-mail: mgilleberto@tyngsboroughma.gov

December 7, 2010

Mr. Jeffrey Carlsen P.O. Box 42 Tyngsborough, MA 01879

Dear Mr. Carlsen:

In response to your letter dated November 30, 2010, contact information for Town Counsel is as follows:

Attorney Charles J. Zaroulis 40 Church Street, Suite 500 Lowell, MA 01852

Sincerely,

(A)

Michael P. Gilleberto Town Administrator

cc:

Board of Selectmen

Charles J. Zaroulis, Town Counsel





Office of the Town Administrator 25 Bryants Lane

Tyngsborough, MA 01879
Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320
E-mail: mgilleberto@tyngsboroughma.gov

December 7, 2010

Ms. Kristine Hartwell 30 Main Street Pepperell, MA 01463

Dear Ms. Hartwell:

This letter serves to notify you of your appointment to the position of Highway Clerk for the Town of Tyngsborough effective December 10, 2010.

This is a union position, with wages and benefits provided per the Clerical collective bargaining agreement. Your starting hourly wage will be \$13.90 per hour for a typical work week of 25 hours. There is a probationary period of 120 days.

Thank you for your continued commitment to the Town of Tyngsborough.

Sincerely,

(MP

Michael P. Gilleberto Town Administrator

cc:

Board of Selectmen
James Hustins, Highway Administrator
Kerry Colburn-Dion, Town Treasurer
Jacqueline Cronin, Town Accountant





Office of the Town Administrator 25 Bryants Lane Tyngsborough, MA 01879

Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320 E-mail: mgilleberto@tyngsboroughma.gov

FROM:

TO:

Michael P. Gilleberto, Town Administrator

Finance Committee

School Committee

DATE:

December 8, 2010

RE:

Insurance Committee

On Monday, December 6, 2010, the Board of Selectmen voted to establish the Tyngsborough Insurance Committee. Below please find information concerning this committee:

Mission Statement for Tyngsborough Insurance Committee (TIC)

The Tyngsborough Insurance Committee consists of five (5) members, made up of one (1) Board of Selectmen, one (1) Finance Committee, (1) School Committee, and up to two (2) Residents of Tyngsborough. The Board of Selectmen will appoint a Board of Selectmen member to represent the Board of Selectmen and will appoint the Resident(s) of Tyngsborough. The Finance Committee and School Committee are responsible for appointing a member from their respective Boards.

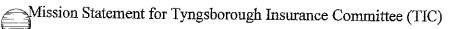
The Tyngsborough Insurance Committee is responsible for reviewing all matters of insurance in the Town of Tyngsborough and making recommendations and a written report to the Board of Selectmen to types of coverage, adequacy, alternatives, etc. The scope of Town of Tyngsborough insurance to be reviewed and recommendations made to the BOS would include, but is not limited to: Health Insurance, Liability Insurance (Vehicle, Building), Long and Short Term Disability Insurance, Life Insurance, General Insurance, etc.

The Finance Committee is requested to submit the name of one member to participate.

Thank you.

cc:

Board of Selectmen



The Tyngsborough Insurance Committee consists of five (5) members, made up of one (1) Board of Selectmen, one (1) Finance Committee, (1) School Committee, and up to two (2) Residents of Tyngsborough. The Board of Selectmen will appoint a Board of Selectmen member to represent the Board of Selectmen and will appoint the Resident(s) of Tyngsborough. The Finance Committee and School Committee are responsible for appointing a member from their respective Boards.

The Tyngsborough Insurance Committee is responsible for reviewing all maters of insurance in the Town of Tyngsborough and making recommendations and a written report to the Board of Selectmen to types of coverage, adequacy, alternatives, etc. The scope of Town of Tyngsborough insurance to be reviewed and recommendations made to the BOS would include, but is not limited to: Health Insurance, Liability Insurance (Vehicle, Building), Long and Short Term Disability Insurance, Life Insurance, General Insurance, etc.



Office of the Town Administrator 25 Bryants Lane

Tyngsborough, MA 01879
Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320
E-mail: mgilleberto@tyngsboroughma.gov

FROM:

Michael P. Gilleberto, Town Administrator



TO:

Board of Assessors

DATE:

December 13, 2010

RE:

Departmental Hours

It has come to my attention that the Board of Assessors is seeking additional information regarding the restoration of hours for employees in the Clerical and Mid-Managers unions.

The restoration of employee hours is intended to be utilized to expand hours of operation for Town departments so that the public may better access Town services. At this point in time the operating hours of Town Hall are Monday through Thursday 8:30 am to 4:00 pm and Friday 8:30-12:30.

cc:

Board of Selectmen





Office of the Town Administrator 25 Bryants Lane Tyngsborough, MA 01879

Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320 E-mail: mgilleberto@tyngsboroughma.gov

December 16, 2010

Office of the Inspector General One Ashburton Place Room 1311 Boston, MA 02108 Attn: CPO Delegation

To whom it may concern:

Attached please find delegations for the Superintendent of Schools, School Business Administrator, and Director of Buildings and Grounds for the Tyngsborough Public Schools.

Sincerely,

WP

Michael P. Gilleberto Town Administrator

cc: Board of Selectmen

Donald Ciampa, Superintendent of Schools Joseph Messina, School Business Administrator George Trearchis, Director of Buildings and Grounds



1.	Original Delegation Amendment Revocation				
2.	15 11 11 11 11 11 11 11 11 11 11 11 11 1				
	am the CPO for 7/05/80/60/6H and hereby delegate the procurement powers and (jurisdiction)				
	duties set forth below to:				
	Title Superintenseut Of Schools				
	DepartmentSchool_				
	Name Donald Champa				
3 .	I hereby delegate the following Chapter 30B powers and duties to the procurements specified herein: Solicit Open Evaluate Award Reject/Cancel Exercise options Increase quantities Maintain records All of the above Other (specify in an attachment)				
4.	This delegation pertains to procurements: School				
	for the following contract(s):				
	other (specify in an attachment)				
	involving: Supplies Services				
	under M.G.L. c.30B, §4(c) (sound business practices)				
	under M.G.L. c.30B, §4(a) (price quotations)				
	JANUAR MOLE GOOD, 30 GOING DIGG				
	The state of the s				
5 .	Other (specify in attachment)				
U.	This delegation is conditioned upon compliance with M.G.L. c.30B, all applicable statutes, rules, regulations, charters, ordinances, or bylaws, and subject to the following additional requirements:				
	Final approval of award by Chief Procurement Officer				
	Approval of all documents by Chief Procurement Officer prior to issuance				
	Certification as a Massachusetts Certified Public Purchasing Official (MCPPO)				
	Certification as an MCPPO for Supplies and Services				
	Certification as an MCPPO for Design and Construction				
	Other Certification (specify in attachment)				

-
· /
7

5. (Continued from previous page):					
Completion of the following MCPPO course(s):					
☐ Public Contracting Overview ☐ Bidding Basics and Contract Admi					
☐ Supplies and Services Contracting ☐ Bidding for Better Results					
	 □ Design and Construction Contracting □ Model IFB Course □ Construction Management at Risk □ Advanced Topics Update 				
☐ Other_	(specify in	an attachment)			
Other requirement	ents (specify in an attachment)				
6. This delegation shall perspire on:	emain in effect until revoked or am ວັບ, 2 <u>ની l</u>	nended. Otherwise,	this delegation shall		
7. I certify that I am the Ch	nief Procurement Officer of	M(SBOROV6H			
* 4		(jurisdiction name)			
Signed	MP	Date	12/16/2010		
Name	MICHAEL P. GILLEB	PRIL			
Title	Town Applied Perfor	1111			
Department	HOMINISTRATION	· · · · · · · · · · · · · · · · · · ·			
Office Address	25 BICTANTS LANE		*		
Office Telephone	TINGSBOROUGH, MA	Zip	01879		
Cinoc releptione	978-649-2317		**************************************		
CPO has MCPPO Certifi	ication: ☐ Yes ፟ᢓ No				

 Send a copy of this form to Office of the Inspector General, One Ashburton Place, Room 1311, Boston, MA 02108, ATTN: CPO Delegation. No delegation, amendment or revocation shall take effect until a copy of the form is received by the Office of the Inspector General.



•	1. Original Delegation Amendment Revocation
. 2	2. Pursuant to the provisions of M.G.L. c.30B, section 19, I
	am the CPO for TNGBULUGH and hereby delegate the procurement powers and (jurisdiction)
	duties set forth below to:
	Title SCHOOL BUSINESS ADMINISTRATION
	Department SCHOOL
	Name Vaseph Messing - MEPPO CERTIFIED
3.	I hereby delegate the following Chapter 30B powers and duties to the procurements specified herein: Solicit Open Evaluate Award Reject/Cancel Exercise options Increase quantities Maintain records All of the above Other (specify in an attachment)
4.	This delegation pertains to procurements: Screen
	for the following contract(s):
	☐ other (specify in an attachment)
	involving: Supplies Services under M.G.L. c.30B, §4(c) (sound business practices) under M.G.L. c.30B, §4(a) (price quotations) under M.G.L. c.30B, §5 using bids under M.G.L. c.30B, §6 using proposals Other (specify in attachment)
5.	This delegation is conditioned upon compliance with M.G.L. c.30B, all applicable statutes, rules, regulations, charters, ordinances, or bylaws, and subject to the following additional requirements:
	☐ Final approval of award by Chief Procurement Officer
	Approval of all documents by Chief Procurement Officer prior to issuance
	Certification as a Massachusetts Certified Public Purchasing Official (MCPPO)
	Certification as an MCPPO for Supplies and Services
	☐ Certification as an MCPPO for Design and Construction
	Other Certification (specify in attachment)

5						
Completion of the following MCPPO course(s):						
	☐ Public	Contracting Overview	ding Basics and Contract Administration			
	☐ Suppli	es and Services Contracting 💢 🔲 Bid	ding for Better Results			
	☐ Desig	n and Construction Contracting 🗀 🤲 Mod	del IFB Course			
	☐ Const	ruction Management at Risk 💢 🔲 Adv	ranced Topics Update			
	Other(specify in an attachment)					
	Other requireme	ents (specify in an attachment)				
6.	This delegation shall rexpire on:	emain in effect until revoked or amende 30, 2011	ed. Otherwise, this delegation shall			
7.	I certify that I am the Ch	nief Procurement Officer of TN6	51801201619			
	· 2	(juri	sdiction name)			
	Signed	OP.	Date 2/16/2010			
-	Name	MICHAEL P. GILLEBERTO				
	Title	TOWN ADMINISTRATOR				
•	Department	AOMINISTRATION				
	Office Address	25 BRYANTS LANE				
	Office Tallacture	TYNGKOKOLH, MA	zip 01879			
	Office Telephone	978-649-2317				
	CPO has MCPPO Certif	lcation: ☐ Yes ∭No				

8. Send a copy of this form to Office of the Inspector General, One Ashburton Place, Room 1311, Boston, MA 02108, ATTN: CPO Delegation. No delegation, amendment or revocation shall take effect until a copy of the form is received by the Office of the Inspector General.



Chief Procurement Officer's Delegation of Procurement Powers and Duties (Type or print legibly)

•	1. Soriginal Delegation Amendment Revocation				
2	2. Pursuant to the provisions of M.G.L. c.30B, section 19, I MICHAEL V. GILLESTO				
	am the CPO for TYN SBIRJUGH and hereby delegate the procurement powers and (jurisdiction)				
	duties set forth below to:				
	Title DIREGIOR OF BUILDINGS + GROWAS				
	Department School				
	Name OFORGE TREARCHIS				
3.	I hereby delegate the following Chapter 30B powers and duties to the procurements specified herein: Solicit Open Evaluate Award Reject/Cancel Exercise options Increase quantities Maintain records All of the above Other (specify in an attachment)				
4.	This delegation pertains to procurements:				
	for the following contract(s):				
	other (specify in an attachment)				
	involving: Supplies Services				
	under M.G.L. c.30B, §4(c) (sound business practices)				
	under M.G.L. c.30B, §4(a) (price quotations)				
	under M.G.L. c.30B, §5 using bids				
	under M.G.L. c.30B, §6 using proposals				
	Other (specify in attachment)				
5.	This delegation is conditioned upon compliance with M.G.L. c.30B, all applicable statutes, rules, regulations, charters, ordinances, or bylaws, and subject to the following additional requirements:				
	☐ Final approval of award by Chief Procurement Officer				
	Approval of all documents by Chief Procurement Officer prior to issuance				
	Certification as a Massachusetts Certified Public Purchasing Official (MCPPO)				
	Certification as an MCPPO for Supplies and Services				
-	☐ Certification as an MCPPO for Design and Construction				
	☐ Other Certification (specify in attachment)				
	•				

	5. (Continu	ed from previous pa	ge);		•	
		completion of the fall	owing MCPPO cours	se(s):		
		Public Contr.	acting Overview	☐ Biddin	ng Basics and Contra	ct Administration
		Supplies and	l Services Contractin	g 🔲 Biddin	g for Better Results	
		Design and	Construction Contra	cting 🔲 Model	IFB Course	
		☐ Construction	n Management at Ris	ik 🔲 Advan	ced Topics Update	
		Other		specify in an attac	:hment)	
		ther requirements (s	pecify in an attachm	ent)		
,		egation shall remain	in effect until revo , 2011	ked or amended.	Otherwise, this del	egation shall
	7. I certify th	at I am the Chief Pr	ocurement Officer of	TYNGSI	BS ROUGH	
		- .		(jurisdi	ction name)	
	Signed	· .	<u> </u>		Date [2][6]	2010

MICHAEL

JOHN

CPO has MCPPO Certification: ☐ Yes ∭No

Name

Title

Department Office Address

Office Telephone

8. Send a copy of this form to Office of the Inspector General, One Ashburton Place, Room 1311, Boston, MA 02108, ATTN: CPO Delegation. No delegation, amendment or revocation shall take effect until a copy of the form is received by the Office of the Inspector General.

1. GILLEBEATO

UNE

Apministrator

Zip



Michael Gilleberto < mgilleberto@tyngsboroughma.gov>

Thank You

Michael Callaherto <mailleberto@tyngsboroughma.gov>

Tue, Dec 28, 2010 at 3:23 PM

To

I'm glad the issue was resolved.

On Tue, Dec 28, 2010 at 3:05 PM, -

wrote:

Dear Mr. Gilleberto;

I just would like to thank you in your response and fast resolve to my property damage. Every thing is back in working order.

Again thank you for your help.

Mike Nadworny

Michael P. Gilleberto Town Administrator Town of Tyngsborough



Trown of brough

Michael Gilleberto <mgilleberto@tyngsboroughma.gov>

property damage

Michael P. Gilleberto < mgilleberto@tyngsboroughma.gov>

Mon, Dec 27, 2010 at 3:42

To:

Mr. Nadworny-

During winter plowing, mailboxes are at times damaged and generally, our policy is to replace them. As we discussed, Jim Hustins from the Highway Department will call you to resolve this.

Michael

On Mon, Dec 27, 2010 at 1:19 PM,

rote:

Dear Mr. Gilleberto;

I called your office this morning around 10;20 and left a message, reporting that a town truck that was plowing my road, struck my mail box/arm knocking them off. This employee kept on going. The mail box was damaged during the night from another plow,

I can understand this happening over night, but not during daylight hours. I also called the highway department around the same time I contacted your office. I also left the same message. To date and time no one has gotten back to me in regards to this matter.

I am retired and don't have the money to replace the mail box and arm every time a plow driver hits it.

How can this matter be resolved?

Thank You

Michael Nadworny

52 Davis Rd

Michael P. Gilleberto Town Administrator Town of Tyngsborough



Office of the Town Administrator 25 Bryants Lane

Tyngsborough, MA 01879 Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320 E-mail: mgilleberto@tyngsboroughma.gov

FROM:

Michael P. Gilleberto, Town Administrator



TO:

Tyngsborough Cultural Council

DATE:

December 29, 2010

RE:

FY 2011 Local Cultural Council Distribution

Congratulations on your appointment to the Tyngsborough Cultural Council! If you have not yet been sworn in, please visit the Office of the Town Clerk to complete this act so that your appointment may be made official.

As is noted in the attached letter from the Massachusetts Cultural Council (MCC), the Town of Tyngsborough is receiving an allocation of \$3,870 for Fiscal Year 2011.

A meeting of the Cultural Council to review FY 2011 applications has been scheduled for Wednesday, January 5, 2011 at 6:00 pm at the Town Offices at 25 Bryants Lane. Attached please find MCC guidelines and the applications for your review.

cc: Board of Selectmen (without attachments)



Office of the Town Administrator 25 Bryants Lane

Tyngsborough, MA 01879
Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320
E-mail: mgilleberto@tyngsboroughma.gov

FROM:

Michael P. Gilleberto, Town Administrator

(RP

TO:

Tyngsborough Cultural Council

DATE:

December 29, 2010

RE:

FY 2011 Local Cultural Council Distribution

As is noted in the attached letter from the Massachusetts Cultural Council (MCC), the Town of Tyngsborough is receiving an allocation of \$3,870 for Fiscal Year 2011.

A meeting of the Cultural Council to review FY 2011 applications has been scheduled for Wednesday, January 5, 2011 at 6:00 pm at the Town Offices at 25 Bryants Lane. Attached please find MCC guidelines and the applications for your review.

cc: Board of Selectmen (without attachments)



October 19, 2010

mager 22 July 66

Boston, MA 02116-3803 617.727.3668 800.232.0960 Toll Free 617.338.9153 TTY 617.727.0044 Fax mcc@art.state.ma.us E-mail www.massculturalcouncil.org Web

10 St. James Avenue

Rosemary Cashman, Town Administrator Town of Tyngsborough Town Hall 25 Bryant Lane Tyngsborough MA 01879-1042

Dear Ms. Cashman:

Enclosed is a contract and scope of services for the Town of Tyngsborough that covers the transfer of FY 2011 Local Cultural Council funds from the Massachusetts Cultural Council to your local cultural council account for the Tyngsborough Cultural Council.

State Comptroller regulations require State Agencies to have a signed contract and signature authorization form on file for all transfers of funds from state to local accounts unless the agency is statutorily released from this mandate, which the Massachusetts Cultural Council is not.

The contract includes: a signature page with the amount of the allocation (\$3,870), dates of service (November 1, 2010 to June 30, 2011), and a place to sign. You only need to sign it and include an email address, if possible. By using some of the contact information you provide, we hope to be able to build a tabase to allow more specific mailings to the officials of your municipality, including yourself. The second page is the scope of services which defines how the funds are to be expended following Massachusetts Cultural Council regulations. Lastly, the Signature Authorization page is a required form for all contracts with state agencies that clearly identifies the person or persons authorized to sign contracts for a vendor, in this case your municipality.

The contract should be signed with a completed Signature Authorization form and returned to me by November 26, 2010.

I will not be able to transfer the Local Cultural Council allocation until I have a completed contract package from your municipality. If you or any of your staff have any questions, please feel free to call me at 617/727-3668 extension 323 or 800/232-0960 extension 323. Once I get the completed contract, I will process the payment for the Tyngsborough Cultural Council.

Thank you very much.

Sincerely,

Michael Nagle Fiscal Officer

Aftachments



Office of the Town Administrator 25 Bryants Lane

Tyngsborough, MA 01879
Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320
E-mail: mgilleberto@tyngsboroughma.gov

December 30, 2010

Ms. Laura Mailander Mr. Barry Hallenborg 2 Frost Road Tyngsborough, MA 01879

Dear Ms. Mailander and Mr. Hallenborg:

Thank you for providing me a copy of your letter to Mr. Thomas Gray, Director of the Right of Way Bureau.

As you know, this is a Commonwealth of Massachusetts Department of Transportation project. I am informed that the Pawtucket Boulevard Realignment Project has an assigned administrator who may be able to assist in resolving ongoing disputes. Her contact information is as follows:

Ms. Maureen Torre
Project Administrator from the Right of Way Bureau at MassDOT

I hope that this information is of assistance to you.

Sincerely,

Michael P. Gilleberto Town Administrator

cc: Board of Selectmen

Ms. Louann Jendro, Office of State Representative Colleen Garry

Laura Mailander Barry Hallenborg 2 Frost Road Tyngsboro, MA 01879

10/11/2010

Thomas Gray
Director, Right of Way Bureau
Massachusetts Highway Department
10 Park Plaza – Room 6160
Boston, MA 02116-3973

Mr. Gray:

Michael Gilleberto,

We wanted to make you aware

of the lack of communication

from MASSDOT regarding the

project and our property. This

is a copy of the letter we

sent in October. If there is

anything you can do to help,

it would be most appreciated.

Thank you

y 91.1

We are writing in regard to the Pawtucket Boulevard relocation project located in Tyngsboro. We bought our home in October 2007 and were not informed of any projects until a surveyor knocked on our door to ask a couple of questions. Prior to that first encounter, we had no knowledge of the project. We still do not feel that anyone authorized has taken the time to fully discuss the detailed impact on our property. Everything has been discussed in generalities.

We have several concerns regarding the relocation of our driveway and the full impact on our property value:

1. First and foremost, the layout of our drive-way is not to our satisfaction. We understand that it will be exiting on a cul-de-sac on Parker Lane and not Frost Road. However, the shape and placement of the driveway on our property needs to be lined up with the garage (not so close to the house, since this will become the front of our house), then curve toward Parker Lane. Secondly, since the driveway will now be 120 feet long, we will need a turnaround. We have many other questions regarding this subject including: How many trees will be removed? Will you fill part of the yard, since it slopes, before you put in the new driveway? Will you relocate our lamppost? What type of landscaping? Etc.

Within the temporary easement, lies our pool, deck, electrical supply, some landscaping, and privacy fence. It was listed in our settlement as a removal. We expect all of the above to be replaced in a new appropriate location on our property. (No one wants a pool in their front yard.)

- 3. Not knowing the details of the project makes it difficult to see how our privacy will be affected fully. Our property has natural cover on all four sides except where the driveway meets Frost Road. In full foliage, we cannot see any traffic, and traffic cannot see us. We expect our privacy to be restored.
- 4. Lastly, and most importantly, is our home's frontage. Our Victorian style house very clearly faces Frost Road. Since there will be a guard rail, and we will not have access to Frost Road, for safety reasons, our address will be changing to 2 Parker Lane. This greatly affects the value of our property. We will be consulting an architect and contractor to redesign the side of our home to look like the front in order to restore the proper property value that will be decreased by this project.

We have accepted the \$7200 for the taking of our square footage and for the temporary easement on a "pro-tanto" basis.

We request a meeting with your offices to discuss mutually amicable measures necessary to mitigate market value and intrinsic value impacts on my property caused by the unilateral reorientation of its frontage.

Please contact us as soon as possible so that we may arrange the meeting.

Sincerely,

Laura Mailander

Barry Hallenborg

CC. State Representative, Colleen Garry CC. Building Commissioner, Paul Welcome CC. Conservation, Director, Matthew Marro



Office of the Town Administrator 25 Bryants Lane

Tyngsborough, MA 01879
Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320
E-mail: mgilleberto@tyngsboroughma.gov

FROM:

Michael P. Gilleberto, Town Administrator

(QP

TO:

Town Department Heads, Board Chairpersons, and Committee

Chairpersons

DATE:

December 28, 2010

RE:

Egress/exit announcement

Please be advised that the Fire Department has forwarded the attached memorandum regarding egress and exit from public auditoriums.

Part "c" of the memorandum requires that "an announcement that is audible, video, or of cinematic communication...give the egress path with the location of exits to be used in case of a fire along with areas of rescue assistance for use by persons with disabilities."

While the requirement to conduct the aforementioned announcement applies only to public auditoriums (Tyngsborough Elementary School, for example), it is recommended that attendees at any public meeting be informed of their surroundings and means of egress/exit.

cc:

Board of Selectmen

Captain Pat Sands, Tyngsborough Fire Department



DEVAL L. PATRICK GOVERNOR

TIMOTHY P. MURRAY LT. GOVERNOR

MARY ELIZABETH HEFFERNAN SECRETARY The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Department of Fire Services

P.O. Box 1025 ~ State Road

Stow, Massachusetts 01775 (978) 567~3100 Fax: (978) 567~3121

www.mass.gov/dfs



Stephen D. Coan State Fire Marshal

MEMORANDUM

TO:

Heads of Fire Departments

FROM:

Stephen D. Coan

State Fire Marshal

DATE:

December 1, 2010

SUBJECT:

Recent amendment to 527 CMR 10.00

Please be advised that 527 CMR 10.00 was recently amended by the Board of Fire Prevention Regulations. This amendment, effective as of 9/3/2010, amends sections 10.13 parts (c)(d) and (e). Attached for your convenience is a copy of the referenced amendment.

Part (c) of 527 CMR 10.13 requires that in any A-1, A-2, or A-3 occupancy, which features a performance before an audience and prior to the start of such performance, that an announcement that is audible, video or of a cinematic medium communication occur. Such announcement shall give the egress path with the location of the exits to be used in case of a fire along with areas of rescue assistance for use by persons with disabilities.

Part (d) of 527 CMR 10.13 provides, as of March 1, 2011 that the owner or operator of a nightclub, dance hall, discotheque or bar, with an occupant load of 100 persons or more designate a crowd manager, for every 250 occupants, or portion thereof based on the Certificate of Inspection issued under 780 CMR.

Part (e) of 527 CMR 10.13 mandates, as of March 1, 2011 that the crowd manager, required by the provisions of part (d) above, be responsible for the completion of the Fire & Building Safety Checklist, as prescribed by the Marshal, on each day of operation prior to opening the facility to its patrons.

DFS under separate cover will provide more details on the implementation and training programs being developed in conjunction with that regulation.

Administrative Services • Division of Fire Safetry Haxardous Materials Response • Massachusetts Firefighting Academy



Office of the Selectmen 25 Bryant Lane Tyngsborough, MA 01879 Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320

December 29, 2010

Mr. Patrick McCabe SEIU Local 888 529 Main Street Suite 222 Charlestown, MA 02129

Dear Mr. McCabe:

In accordance with Article 28 of the Mid-Managers Union's collective bargaining agreement, please accept this letter as the Town's notice of its desire to negotiate potential changes in the terms of the collective bargaining agreement that expires June 30, 2011. Accordingly, please contact the Town Administrator so that an initial negotiation session can be scheduled at a mutually convenient time.

Thank you for your attention to this matter.

Sincerely,

Ushley L. O'Neill

Chairperson, Board of Selectmen

cc:

Matthew Marro

Kerry Colburn-Dion



Office of the Selectmen 25 Bryant Lane Tyngsborough, MA 01879

Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320

December 29, 2010

Mr. Patrick McCabe SEIU Local 888 529 Main Street Suite 222 Charlestown, MA 02129

Dear Mr. McCabe:

In accordance with Article XXIX of the Highway Union's collective bargaining agreement, please accept this letter as the Town's notice of its desire to negotiate potential changes in the terms of the collective bargaining agreement that expires June 30, 2011. Accordingly, please contact the Town Administrator so that an initial negotiation session can be scheduled at a mutually convenient time.

Thank you for your attention to this matter.

Sincerely,

Ashley L. O'Neill

Chairperson, Board of Selectmen

cc: William Lannon

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Office of the Selectmen

25 Bryant Lane Tyngsborough, MA 01879 Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320

December 29, 2010

Mr. Patrick McCabe SEIU Local 888 529 Main Street Suite 222 Charlestown, MA 02129

Dear Mr. McCabe:

In accordance with Article XXII of the Clerical Union's collective bargaining agreement, please accept this letter as the Town's notice of its desire to negotiate potential changes in the terms of the collective bargaining agreement that expires June 30, 2011. The Town reserves its right to propose amendments to any of the terms of the collective bargaining agreement. Accordingly, please contact the Town Administrator so that an initial negotiation session can be scheduled at a mutually convenient time.

Thank you for your attention to this matter.

Sincerely,

Ashley L. O'Neill

Chairperson, Board of Selectmen

ashlay L. O'MeiOO

cc:

Pamela Berman Gloria Clancy



Office of the Town Administrator 25 Bryants Lane

Tyngsborough, MA 01879
Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320
E-mail: mgilleberto@tyngsboroughma.gov

December 28, 2010

Mr. Frank Kapuscinski 4333 Bermuda Street Philadelphia, PA 19124

Dear Mr. Kapuscinski:

I am in receipt of your letter dated November 22, 2010 requesting a patch or decal depicting the seal of the Town of Tyngsborough.

While the Town is unable to provide a patch or decal, I have printed a hard copy of our Town seal for your collection.

Thank you for your interest in the Town of Tyngsborough.

Sincerely,

MP

Michael P. Gilleberto Town Administrator

cc: Board of Selectmen

